
Appeal File Number:	023-STU-022
Application Number:	2023-S-012
Appeal Against:	Subdivision Authority of Sturgeon County
Appellant:	David Lylick
Date and Location of Hearing:	October 3, 2023 Council Chambers and Through Electronic Communications
Date of Decision:	October 17, 2023
SDAB Members:	Julius Buski (Chair), Lee Danchuk, Mark Garrett, Alanna Hnatiw, and Amanda Papadopoulos

NOTICE OF DECISION

IN THE MATTER OF an appeal by David Lylick against the Subdivision Authority’s conditional approval to subdivide 0.2 hectares (0.49 acres) from 1.4 hectares (3.46 acres) at Plan 8020218; Block 2; Lot 7 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; and
 - d. Planning & Development Services Report.

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 Appellant raised the following grounds of appeal:

- a. The Subdivision Authority did not approve the desired Lots 2 and 3.

RECOMMENDATION OF THE SUBDIVISION AUTHORITY

[10] Jonathan Heemskerk, representative for the Subdivision Authority, provided a presentation which included an issue analysis for the Appellant's proposal and reasons for the Subdivision Authority's conditional approval of Lot 1 with a parcel size of 0.2 hectares.

[11] The parcel at Plan 8020218; Block 2, in Summerbrook Estates is within the R2 – Country Estate Residential District. Pursuant to the Land Use Bylaw, the minimum parcel area in this district is 0.2 hectares and the minimum parcel width is 25 metres. All proposed parcels and the remnant parcel must connect to full municipal servicing and be accessed via a *road, local*.

[12] The Appellant proposed three new lots and a remnant lot to be created from 1.40 hectares:

- a. Lot 1 - 0.17 hectares;
- b. Lot 2 - 0.2 hectares; and
- c. Lot 3 - 0.4 hectares.

[13] The Subdivision Authority supports proposed Lot 1 on the condition that the parcel size be increased to meet the minimum area requirement of the Land Use Bylaw (0.2 hectares). It is noted that this change would encompass a portion of the existing driveway on the remnant lot.

[14] Proposed Lot 2 has a parcel width of 25 metres; however, there is a 12-metre-wide utility right of way which significantly reduces the developable area. The proposed access would be too close to the intersection of Bellerose Drive and River Lane, as the minimum required setback is 100 metres as identified in the General Municipal Servicing Standards (GMSS). Direct Access to Bellerose Drive as a major collector road is not supported by the Subdivision Authority.

[15] Direct access to proposed Lot 3 from Bellerose Drive cannot be supported by the Subdivision Authority, and there is no acceptable width for an access easement through Proposed lot 1 to ensure legal access. This would not conform with the Land Use Bylaw or the Matters Related to Subdivision and Development Regulation of the *Municipal Government Act* (section 11) which requires that "every proposed subdivision must provide to each lot to be created by it:

- a. Direct Access to a road as defined in section 616(aa) of the Act, or
- b. Lawful means of access satisfactory to the subdivision authority."

[16] The Subdivision Authority's decision for conditional approval of Lot 1 with an increase in size to 0.2 hectares is consistent with Sturgeon County Municipal Development Plan policies, Sturgeon County Land Use Bylaw regulations, and the *Municipal Government Act*.

SUMMARY OF APPELLANTS' POSITION

[17] The Appellant, David Lylick, provided a verbal presentation, requesting the Board's approval of proposed Lots 1 and 3 while recognizing that proposed Lot 2 is likely infeasible given the restrictions caused by the utility right of way.

[18] The Appellant stated that he is willing to work with County Administration to explore options that align with requirements for access to proposed Lots 1 and 3, and that he would consider a reconfiguration of the proposed lots to allow access via a longer driveway from River Lane to access and develop proposed Lot 3.

[19] The Appellant suggested that a newly constructed turnout lane could be lengthened to provide a safe and direct approach from Bellerose Drive to proposed Lot 3, and if approved, he is willing to work with the County to complete the necessary infrastructure improvements.

DECISION OF THE BOARD

[20] **The Board DENIES the appeal and REVOKES the decision of the Subdivision Authority made on August 31, 2023 to conditionally approve subdivision application 2023-S-012. The subdivision application is refused in its entirety.**

REASONS FOR THE DECISION

[21] The Appellant's request is to subdivide three new lots from an existing 1.40-hectare lot at Plan 8020218; Block 2; Lot 7 within Sturgeon County. The proposed remnant lot has an existing residential development with access to River Lane.

[22] The Subdivision Authority submitted that the proposed Lot 1 has been conditionally approved with an increased area of 0.2 hectares to ensure consistency with the Land Use Bylaw R2 – Country Estate Residential regulations. However, proposed Lots 2 and 3 are not supported as there is no legal direct access to a roadway. Further, the presence of a 12-metre-wide utility right of way on proposed Lot 2 significantly diminishes the developable area.

[23] The Subdivision Authority submitted that the proposal for a subdivision out of this quarter section would be the first acreage on this site and there were no concerns with complying with MDP Residential Type 4 policies in this regard.

Proposed Lot 2

[24] With respect to proposed Lot 2, the Board heard from the Appellant that he no longer wishes to proceed given the challenges presented by the utility right of way, and therefore the Board refuses this subdivision.

Proposed Lot 3

[25] With respect to proposed Lot 3, the Board heard from the Subdivision Authority that there is no acceptable width for an access easement through proposed Lot 1 to ensure legal access. This would not conform with the Land Use Bylaw or the Matters Related to Subdivision and Development Regulation of the *Municipal Government Act* (section 11), which requires that every proposed subdivision must provide to each lot to be created by it, direct access to a road as defined in section 616(aa) of the *Municipal Government Act*, or lawful means of access satisfactory to the subdivision authority.

[26] The Appellant proposed direct access to proposed Lot 3 from Bellerose Drive. The Board considered the following provisions of Municipal Development Plan (MDP):

2.2.4 – Shall ensure that the that subdivision and development does not preclude the possibility of future road widening; and

2.2.7 – Shall ensure infill subdivision and development compliments the established character of the area, complies with the associated Residential Type policies, addresses any infrastructure constraints and conforms to the criteria outlined in the Land Use Bylaw (LUB).

[27] The Board finds that the Appellant’s proposal for direct access to proposed Lot 3 from Bellerose Drive would present significant safety hazards and is not in alignment with the MDP, and therefore proposed Lot 3 is refused.

Proposed Lot 1

[28] With respect to proposed Lot 1, the Board considered the written submission from adjacent landowners which identified safety concerns about access to the proposed lot. The adjacent landowners identified that the portion of River Lane southbound in front of the proposed Lot 1 is downhill, and particularly in winter conditions, vehicles have difficulty successfully navigating this corner. The Board is persuaded by this submission and finds that the addition of an approach at this location may exacerbate existing safety issues in this area.

[29] The Board also considered the adjacent landowner’s submission with respect to this subdivision in the context of the character of this community. While proposed Lot 1 as conditionally approved would meet the minimum parcel size requirements of the Land Use Bylaw, the Board finds that the configuration of proposed Lot 1 is inconsistent with the nature of the community, being estate residential parcels.

[30] For all of these reasons, the Board DENIES the appeal and REVOKES the decision of the Subdivision Authority made on August 31, 2023 to conditionally approve subdivision application 2023-S-012. The application is refused in its entirety.

Dated at the Town of Morinville, in the Province of Alberta, this 17th day of October, 2023.



Julius Buski, Chair

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
- Appellant-supplied photographs