
Appeal File Numbers:	024-STU-004
Application Number:	2024-S-003
Appeal Against:	Subdivision Authority of Sturgeon County
Appellant:	Norman Streeter
Date and Location of Hearing:	April 2, 2024 Council Chambers and Through Electronic Communications
Date of Decision:	April 16, 2024
SDAB Members:	Julius Buski (Chair), Lee Danchuk, Amanda Papadopoulos, Don Rigney, and Kristin Toms

NOTICE OF DECISION

IN THE MATTER OF an appeal by Norman Streeter against the Subdivision Authority’s conditional approval of an alternate acreage configuration at SE 26-55-26-W4 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. Appellant’s 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 Appellant raised the following grounds of appeal:

- a. The requested subdivision would protect the existing residence from flooding.

RECOMMENDATION OF THE SUBDIVISION AUTHORITY

[10] Jonathan Heemskerk and Alex Niznik, representatives 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 an alternate acreage configuration.

[11] The application outlines that the purpose of the lot line adjustment is to increase the size of the existing acreage to protect the residence from flooding in case a farmer removes trees and decides to fill in the flood plain.

[12] The proposal does not conform with section 2.3.17 of the Municipal Development Plan, which states that Acreage Lots shall minimize the total amount of cultivated land being taken out of agricultural production. The maximum lot density for an Acreage Lot shall be one (1) unit per 32 hectares, with a lot size subject to provisions under the Land Use Bylaw.

[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), unless a larger area is essential to encompass mature shelterbelts, existing buildings or any other related features with an existing farmstead, and/or mitigate any site constraints which could otherwise significantly limit the development potential of a 1 hectare (2.47 acre) parcel or create land use conflicts.

[14] The Subdivision Authority conditionally approved the application with an alternate configuration that would incorporate approximately 20 metres to the south which will match the boundary utilized for the acreage. To ensure an established shelterbelt can be retained, the property line can be moved slightly to the north and west to encompass a stretch of trees without losing cultivated farmland.

[15] The proposed lot is approximately four times larger (11.79 acres) than the established acreage and is not considered 'essential' to the use of the acreage by the Subdivision Authority and therefore cannot be supported.

SUMMARY OF APPELLANT'S POSITION

[16] The Appellant, Norman Streeter, attended the hearing and requested approval for the original subdivision application to increase the acreage size to 11.79 acres.

[17] The Appellant submitted that additional land is required to protect his acreage from flooding. The area floods every spring and if the trees are removed and the slough filled in, the water will have nowhere to drain, and his home will flood.

DECISION OF THE BOARD

[18] **The Board GRANTS the appeal, REVOKES the decision of the Subdivision Authority made on March 8, 2024 to conditionally approve subdivision application 2024-S-003 with an alternate and approves the subdivision as requested subject to the following conditions:**

- 1) Pursuant to section 654(1)(d) of the *Municipal Government Act* (MGA), any outstanding taxes on the subject properties 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 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 adjacent to Range Road 261 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 adjacent to Range Road 261 and Township Road 554 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 upon completion of a physical on-site inspection in spring 2024, 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 \$3,509.46 at a rate of \$9,641.37 per hectare X 10% x 3.64 hectares = \$3,509.46. \$385.65 (*determined at a rate of \$9,641.37 per hectare X 10% 0.40 hectares = \$385.65*). 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) Pursuant to section 654(1)(c) of the MGA, the proposed subdivision must result in compliance with the 2021 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.

ADVISORY NOTES

- Pursuant to section 2.4.3 of the Land Use Bylaw (LUB), at the development permit stage on any property, it is highly recommended that the developer retain the services of a qualified engineering professional to prepare and submit a geotechnical investigation confirming that the proposed building site on is suitable for development and prescribing any preventative engineering measures to be taken to make the building site suitable for future development or future development suitable for the building site.
- Pursuant to the *Water Act* and the Alberta Wetland Policy, any future development or site grading which might alter or disturb a wetland may require additional approvals from Alberta Environment and Parks.
- Any parcel without an existing approach must collaborate with Planning & Development Services to submit an Approach Application and determine access requirements prior to any construction in the future. No development permits shall be issued until a suitable approach has been constructed to General Municipal Servicing Standards and inspected. For assistance with access issues and inspections, please telephone 780-939-8275.
- The subject properties shall not be used in any manner or way that impedes or will impede the use of adjacent lands for agricultural purposes or agricultural operations, as defined in the *Agricultural Operation Practices Act*, RSA 2000 c.A-7.
- *FireSmart* principles should be incorporated into all future construction and development. Please visit www.firesmartcanada.ca.
- It is recommended that a plot plan be completed by an Alberta Land Surveyor to determine setback distances for all buildings, structures, and septic systems from property lines and other site features.

REASONS FOR THE DECISION

- [19] The Appellant's request is for a lot line adjustment to increase the acreage size to 11.79 acres. The property is districted as AG – Agriculture District and has an existing residence and numerous accessory buildings.
- [20] 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 the proposed subdivision conforms with any relevant statutory plan and any land use bylaw that affects the land to be subdivided.
- [21] The Subdivision Authority submitted that the proposal does not conform with the Municipal Development Plan (MDP) (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 prescribes the maximum lot density for an Acreage Lot as one (1) unit per 32 hectares, with a lot size

subject to provisions under the Land Use Bylaw. Section 11.1.3(e) of the Land Use Bylaw states that the maximum size for subdivision of farmland is 1 hectare (2.47 acres), although a larger size may be granted to encompass mature shelterbelts, existing buildings or any other related features with an existing farmstead, and/or mitigate any site constraints which could otherwise significantly limit the development potential of a 1 hectare (2.47 acre) parcel or create land use conflicts.

- [22] The Board heard from the representatives of the Subdivision Authority that the proposed subdivision would take approximately 1 acre out of agricultural production. The Board finds that the intent of Policy 2.3.17 of the MDP is to prevent agricultural land from being subdivided such that large amounts of land are removed from agricultural production, and that the removal of 1 acre of land from the major agricultural parcel is not contrary to the spirit or intent of the MDP.
- [23] The Board heard from the representatives of the Subdivision Authority that 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), unless a larger area is essential to encompass mature shelterbelts, existing buildings or any other related features with an existing farmstead, and/or mitigate any site constraints which could otherwise significantly limit the development potential of a 1 hectare (2.47 acre) parcel or create land use conflicts.
- [24] The Board finds that the larger subdivision is essential to encompass mature shelterbelts, and that excluding the shelterbelts from the subdivision could result in future clear cutting of trees as submitted by the Appellant, exacerbating existing drainage issues, and resulting in increased land use conflicts. Therefore, the Board finds that the Appellant’s proposal is consistent with the intent of the Land Use Bylaw.
- [25] Had the Board found the proposal to be inconsistent with the Land Use Bylaw, pursuant to section 654(2)(a)(i) of the MGA, the Board finds that it could still approve the application since, 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. The Board received no evidence from adjacent landowners indicating opposition to the application.
- [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 as identified in Exhibit 3 appended to this Decision, subject to the conditions listed above.

Dated at the Town of Morinville, in the Province of Alberta, this 16th day of April, 2024.

A handwritten signature in blue ink, appearing to read 'J Buski', is centered on the page.

Julius Buski, Chair

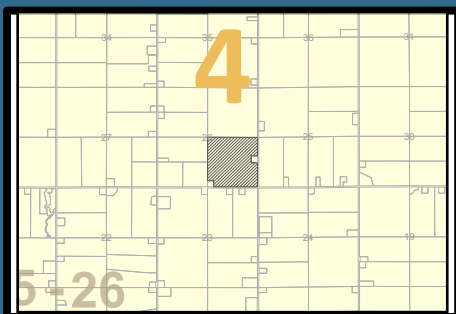
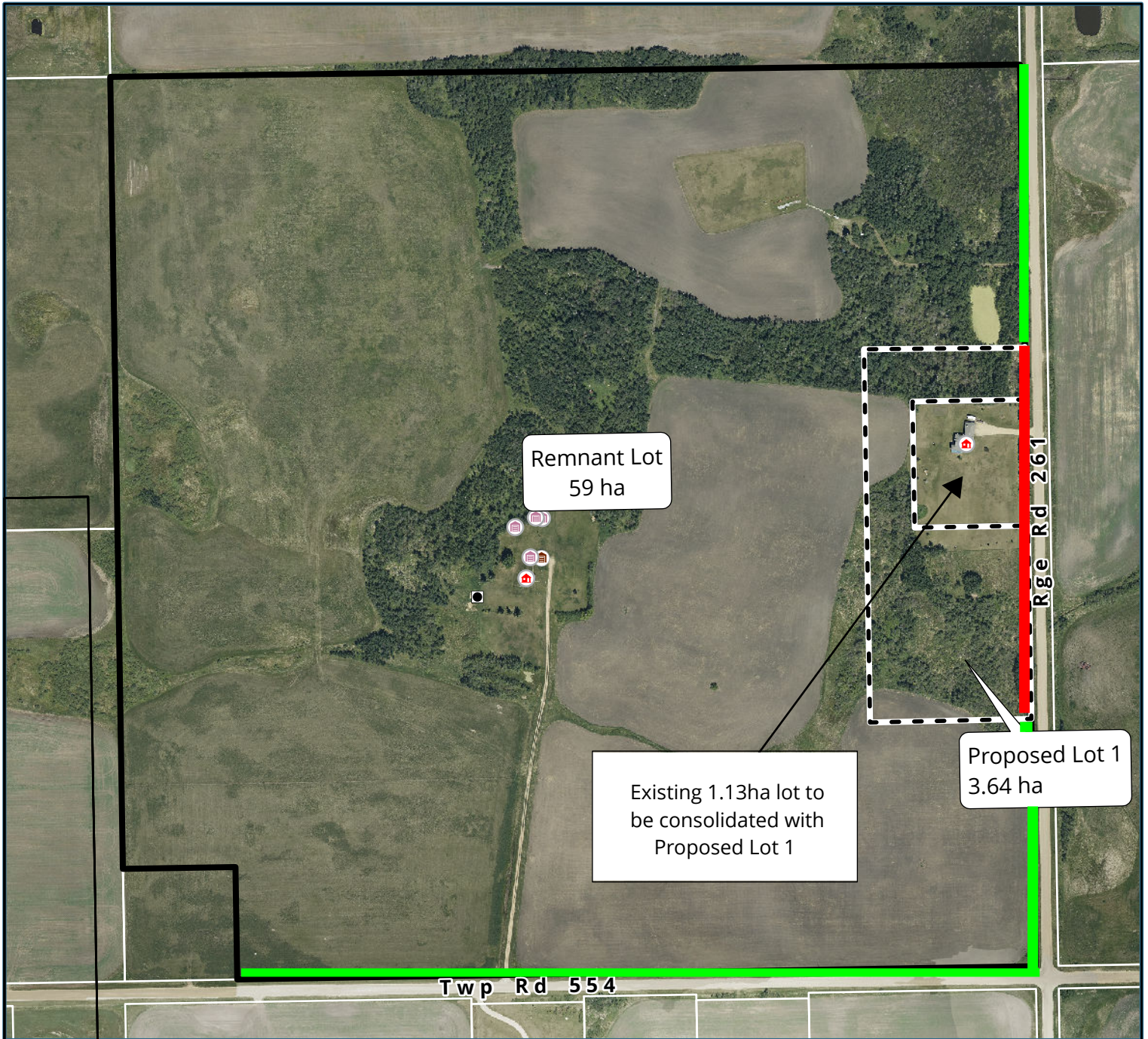
Pursuant to Section 688(1)(a) of the Municipal Government Act (MGA), an appeal of a decision of the Subdivision and Development Appeal Board lies with the Alberta Court of Appeal on a matter of law or jurisdiction. In accordance with Section 688(2)(a), if a decision is being considered, an application 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's submission.

Exhibit 3 [SDAB Decision]

File Number: 2024-S-003



Legal Description: 4;26;55;26;SE

Roll Number: 3871000

Total Acres/Hectares: 154.90ac / 62.58ha

Land Use: AG - Agriculture

Municipal Address: 26110 Twp Rd 554

Date: 4/2/2024

Legend

Dwelling

Garage

Pump Out

Shed

Road Widening by Plan of Survey

Road Widening by Caveat