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Appeal File Number: 025-STU-014  
Application Number: 2025-S-032  
Appeal Against: Subdivision Authority of Sturgeon County  
Appellant: Lee & Dionne Dwernychuk  
Date and Location of Hearing: October 29, 2025  
Council Chambers and Through Electronic Communications  
Date of Decision: November 12, 2025

SDAB Members: Julius Buski (Chair), Lee Danchuk, and Lili Terry.

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### NOTICE OF DECISION

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**IN THE MATTER OF** an appeal by Lee & Dionne Dwernychuk against the Subdivision Authority's conditional approval of addition of 0.40 hectares to existing parcel; the refusal by the Subdivision Authority to grant an additional 1.91 hectares to be incorporated into the existing property, and the Subdivision Authority's refusal of Proposed Lot 2 (1.86 hectares), directly adjacent to the subject property.

- [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:
  - The Notice of Appeal;
  - A copy of the subdivision application with attachments;
  - The Subdivision Authority's written decision; and
  - 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:
  - Requesting to adjust property lines on Lot 1 Block 1 SW 8-56-25-W4 and to adjust the property to properly encompass surrounding trees and structure to the south.
  - Adding an additional driveway off Range Road 255 in the future will grant direct access to a shed. The Appellant currently has to drive through shelterbelts between the house and the shed and it is difficult to navigate with grain trucks and equipment.
  - Proposed Lot 2 would allow for easy maneuvering of farm equipment. Current access is impeded by water and the Appellant is unable to access it to seed or properly spray herbicide.
  - The request to add 1.91 hectares to the existing parcel is to enable ease of access past the drainage ditch. The Appellant is experiencing difficulties crossing the drainage ditch and feels that it would be better suited as an acreage development due to inefficient overlapping while seeding crops and difficulty maneuvering equipment.

## **RECOMMENDATION OF THE SUBDIVISION AUTHORITY**

- [10] Jonathan Heemskerck, representative for the Subdivision Authority, provided a presentation which included an issue analysis for the Appellants' proposal and reasons for the Subdivision Authority's refusal.
- [11] The subdivision history of the parcel included the creation of a 5.97-acre (2.41 hectare) parcel from quarter section and the split of the quarter section in half and subdivision of 6.84-acre (2.77 hectare) parcel.
- [12] The intent of the application is to adjust the lot lines of an existing acreage parcel by 2.31 hectares (5.71 acres), including two separate additions of 0.40 hectares (0.99 acres) and 1.91 hectares (4.72 acres), and to subdivide a 1.83-hectare parcel (4.52 acres) located in the northwestern corner of the lands (Proposed Lot 2).
- [13] The full allotment of agricultural subdivisions has already been reached on this quarter section. The land has been divided into two half-quarter sections, with one acreage parcel subdivided from each, resulting in the maximum permitted total of four parcels.
- [14] The creation of Proposed Lot 2 would result in the fifth parcel and third acreage on this quarter section which contradicts the maximums outlined in the Municipal Development Plan (Policy 2.3.12) and the Land Use Bylaw (Part 11.1.3(a)). As such, administration cannot support this parcel.

- [15] The existing boundaries of Proposed Lot 1 are misaligned with the mature tree stand and greenhouse that provide a clear and defined break between the land utilized for the acreage and the surrounding cultivated farmland. The lot line adjustment of Proposed Lot 1 looks to accomplish two goals: the first is to slightly adjust the lot lines to the north and south to incorporate the tree stand/greenhouse, and the second is to incorporate roughly 3 acres of flood prone lands into the acreage.
- [16] Part 11.1.3(e) of the Land Use Bylaw outlines that an acreage size larger than 2.47 acres can be accommodated to, “...encompass mature shelterbelts, existing buildings or any other related features associated with an existing farmstead.” The Subdivision Authority can adjust the parcel boundary to the north and south to better align the with the mature shelterbelt and greenhouse, which would add roughly 1 acre to the existing parcel. However, incorporating three acres of heavily flood prone agricultural lands into the acreage parcel does not align with the Land Use Bylaw or Municipal Development Plan.
- [17] As Proposed Lot 1 is an already established acreage and the new proposed boundaries avoid the seasonal drainage course and heavily flood prone areas, the Subdivision Authority can ensure the parcel is suited for its intended purpose as per the *Municipal Government Act*. As such, no hydrological or geotechnical report will be required for the application for Proposed Lot 1. However, future development/subdivision of the surrounding lands may be subject to engineering reports based on the location of the proposal.
- [18] It appears that the existing septic field would continue to comply with the Alberta Private Sewage Systems Standard of Practice.
- [19] Money in lieu of municipal reserve will be required, as detailed in condition six. As reserves have already been claimed in the existing acreage parcel, only the additional lands incorporated through the lot line adjustment will be utilized in the calculation.

#### **SUMMARY OF APPELLANT’S POSITION**

- [20] The Appellant, Lee Dwernychuk, attended the hearing and submitted that the original subdivision in 2001 was designed to avoid a low-lying area near the house, with the intent to preserve viable farmland and facilitate natural water drainage. The Appellant noted that the kidney-shaped portion of land is seasonally inaccessible due to water accumulation.
- [21] The Appellant expressed concern that losing access to rented land would result in the loss of access to a 1.86-hectare parcel currently utilized by the Appellant for farming. Although he rents the land currently, future access may be restricted. The Appellant seeks to include a shelter belt in the subdivision, noting that the north side of the belt is unsuitable for farming and has only been seeded once in the past decade due to flooding.
- [22] The Appellant requested inclusion of the pre-approved shelter belt and an additional portion of land south of the belt to facilitate access to his shed. He stated that equipment access is currently constrained and that direct access to the road would allow for the establishment of a future approach for farm machinery.

- [23] The Appellant emphasized that the land is fragmented, leading to inefficiencies such as overfertilization and grass die-off. He indicated that the appeal for the initial parcel prompted the request to include the additional area to improve overall farm management.
- [24] The Appellant suggested the possibility of constructing a dugout in the circular area and using the fill for subdivision purposes, thereby enhancing farmability.
- [25] The Appellant referenced the proposed conditions and expressed willingness to complete a hydrological study prior to obtaining a building permit. He reiterated that he was unaware of any objections until shortly before the hearing and emphasized his desire not to cause conflict with neighbouring landowners.

#### **SUBMISSIONS FROM OTHER AFFECTED PERSONS**

- [26] Loran Bokenfohr was in attendance and provided a verbal presentation in opposition of the subdivision. He submitted that he was representing his elderly parents, Robert and Lillian, who were unable to attend the hearing due to health reasons.
- [27] Mr. Bokenfohr farms the land west of the range road and disputed the Appellant's claim that proposed Lot 2 lacks access. He pointed out an existing approach and crossing at the northwest corner of the adjacent 80-acre parcel.
- [28] Mr. Bokenfohr stated that the area labeled as wetlands has historically been farmed and contains no standing water, only vegetation. He suggested the designation may be misleading due to recent staking and lack of cultivation.
- [29] Mr. Bokenfohr recommended that the Board reject the subdivision for Proposed Lot 2, stating the land is farmable, has access, and the pie-shaped design was intentional. He warned that similar modifications (e.g., shelter belts, ditches) could be used to justify future subdivisions.
- [30] A temporary shelter was recently placed on the south side of Lot 1, and access exists through the shelter belt. Mr. Bokenfohr expressed concern that approving this expansion could set a precedent for further residential development along a heavily trafficked road used by truck terminals.
- [31] Mr. Bokenfohr emphasized the importance of limiting future residential growth to prevent increased traffic and potential conflicts. He advocated maintaining a low population density in the area. He does not object to the proposed extension of Lot 1; however, his primary concern was the creation of an additional residential lot at the north end (Proposed Lot 2). He emphasized that the added residential lot would increase traffic and population density, which he considers problematic for the area.
- [32] Faye Ferrier was in attendance and provided a verbal presentation in opposition of the subdivision. She submitted that she lives directly across the road from the Appellant and noted that several previously subdivided lots to the north and south remain undeveloped. These subdivisions occurred before changes to the Land Use Bylaw.
- [33] The road is heavily used, especially during spring and fall, due to two grain terminals at its end. While it may appear quiet post-harvest, the area experiences significant traffic, including large grain trucks and stopped trains, raising safety concerns for local families.

- [34] Ms. Ferrier expressed concern that approving this subdivision could set a precedent for future residential development along the road, which could lead to increased population density, traffic volume, and dust, which she believes is not in the best interest of the community.
- [35] Ms. Ferrier stated that her main concern is regarding the subdivision of Lot 2, not the expansion of Lot 1. While the future of Lot 1 is uncertain, the shelter belt and tree planting occurred before the land was sold. Both developments (north and south) stem from the Appellant's planning decisions.
- [36] She emphasized the importance of preserving farmland and maintaining access to fields and questioned the necessity of the wetland designation to the north, suggesting that if the drainage ditch functions properly, the area may not qualify as wetland.
- [37] The only way to access the G3 terminal is via Range Road 255. Farmers often prefer using the gravel road over the highway due to lighter traffic and the ability to travel more slowly without impeding others. Ms. Ferrier identified the busiest stretch of road on the map included in the agenda package by Planning & Development Services.

#### **DECISION OF THE BOARD**

- [38] The Board GRANTS the appeal and DENIES the decision of the Subdivision Authority made on October 2, 2025 to conditionally approve the proposed subdivision of an addition of 0.40 hectares to the existing parcel; the refusal by the Subdivision Authority to grant an additional 1.91 hectares to be incorporated into the existing property, and the Subdivision Authority's refusal of Proposed Lot 2 (1.86 hectares), directly adjacent to the subject property. The Board hereby approves the subdivision as outlined in Exhibit Three (attached), subject to the following conditions:
- Pursuant to Provision 654(1)(d) of the 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.
  - The applicant shall retain the services of a professional Alberta Land Surveyor, who shall submit a drawing to Sturgeon County resembling Exhibit 3, submit it in a manner that is acceptable to Land Titles.
  - Pursuant to Provision 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 Proposed Lot 1/Proposed Lot 2 and the adjacent road shall be dedicated as road allowance via plan of survey at no cost to Sturgeon County.
  - Pursuant to Provision 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).
  - 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 in accordance with General Municipal Servicing Standards, *before* this subdivision is endorsed.

- Pursuant to Provision 666 of the MGA, money in lieu of municipal reserve shall be provided to Sturgeon County respecting 10% of the additional area included into Proposed Lot 1 and the new lot of Proposed Lot 2. A payment will be made in place of reserves equal to \$4,979.58 (*determined at a rate of \$22,033.52 per hectare X 10% X 0.40 hectares = \$4,979.58*). The money-in-lieu calculation will be based on the actual amount of land (in *hectares*) shown on a plan of survey.
- Pursuant to Provision 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).
- The applicant is to obtain all necessary permits to comply with the Land Use Bylaw – to the satisfaction of the Development Authority.
- The applicant shall complete a Hydrological Analysis for Proposed Lot 2 which will be stamped and signed by a P. Eng. and will determine what the 1:100 yr. flood inundation elevation is for the parcel to help establish a basement or finish floor elevation. The analysis will also establish the lowest building opening elevation, ensuring it is a minimum of 0.5m above the 1:100 yr. high water level, and include any development constraints for the parcel. The analysis shall be completed to the satisfaction of Sturgeon County Development Engineering and Land Services.

## REASONS FOR THE DECISION

[39] The Appellant’s request is to add 0.40 hectares to the existing parcel, to add an additional 1.91 hectares to be incorporated into the existing property, and to subdivide Proposed Lot 2 (1.86 hectares) directly adjacent to the subject property.

[40] The Subdivision Authority refused the subdivision application on the grounds that the proposal does not conform with the Municipal Development Plan or Land Use Bylaw. The creation of Proposed Lot 2 would result in a fifth parcel and third acreage on this quarter section, which exceeds the maximums outlined in Policy 2.3.12 of the Municipal Development Plan and Part 11.1.3(a) of the Land Use Bylaw.

[41] Part 11.1.3(e) of the Land Use Bylaw outlines that an acreage size larger than 2.47 acres can be accommodated to, “*...encompass mature shelterbelts, existing buildings or any other related features associated with an existing farmstead.*” The Subdivision Authority noted that it can adjust the parcel boundary to the north and south to better align the with the mature shelterbelt and greenhouse, which would add roughly 1 acre to the existing parcel. However, incorporating three acres of heavily flood prone agricultural lands into the acreage parcel does not align with the Land Use Bylaw or Municipal Development Plan.

[42] 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.

- [43] The Board considered the evidence and submissions from affected parties and finds that the proposed subdivision would not unduly interfere with the amenities of the neighbourhood, nor materially affect the use, enjoyment, or value of adjacent parcels of land. The Board notes that objections primarily focused on concerns related to increased traffic flow and potential future development. However, the Board finds that concerns regarding future development are not germane to this appeal. Furthermore, the Board concludes that the addition of one lot will not have a detrimental impact on traffic flow.
- [44] The Board finds that the proposed subdivision aligns with the existing agricultural land use designation and represents an effective use of the land. The Board further finds that the subdivision of Proposed Lot 2 is a logical and appropriate use of the property. Additionally, the Board finds that allowing the subdivision of the southern portion of land (1.91 hectares) will improve access to the Appellant's outbuildings and support future agricultural activities on the lands.
- [45] For all of these reasons, the Board GRANTS the appeal and DENIES the decision of the Subdivision Authority made on October 2, 2025 to conditionally approve the proposed subdivision of an addition of 0.40 hectares to the existing parcel; the refusal by the Subdivision Authority to grant an additional 1.91 hectares to be incorporated into the existing property, and the Subdivision Authority's refusal of Proposed Lot 2 (1.86 hectares), directly adjacent to the subject property. The Board approves the subdivision as outlined in Exhibit Three (attached), subject to the conditions listed above.

[46]

Dated at the Town of Morinville, in the Province of Alberta, this 12<sup>th</sup> day of November, 2025



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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
- Exhibit Three: Updated Lot Plan