

MINUTES OF THE MEETING OF THE PARKLAND COUNTY SUBDIVISION AND DEVELOPMENT APPEAL BOARD HELD IN THE COUNCIL CHAMBERS IN THE COUNTY OFFICE AT PARKLAND COUNTY, ALBERTA ON MONDAY, MAY 26, 2008.

CALL TO ORDER

The Chairperson, B. Forbes, called the meeting to order at 4:04 p.m.

PRESENT

Members: K. Darby, B. Forbes, C. Goerz, T. Melnyk, J. Smith and S. Zelych
Administration: S. Fegyverneki, G. Horsfield, R. Sider and A. Story
S. Cammidge (Recording Secretary)

ADOPTION OF AGENDA

Moved by K. Darby that the Agenda of the meeting be adopted as presented.

CARRIED UNANIMOUSLY

ADOPTION OF MINUTES

Moved by S. Zelych that the Minutes of the May 12, 2008 Subdivision and Development Appeal Board meeting be adopted as presented.

CARRIED UNANIMOUSLY

4:10 p.m. Appointment

An appeal of a decision of the Development Authority to refuse Development Permit No. 08-D-065 for the keeping of animals not in accordance with Section 24 of Parkland County's Land Use By-Law No. 15-00 (2 additional dogs – 4 in total) on Lot 2, Block 1, Plan 8120136, Spruce Ridge Properties, S.W. 7-53-2-W5M, Municipal Address: #2, 53111 Range Road 30, Applicant/Appellant: Shirley Gagne.

The Chairperson opened the Hearing at 4:12 p.m.

There was no objection to the Board members hearing this appeal and there was no objection to the Acting Secretary of the Board taking part in any private or in-camera sessions with the Board.

G. Horsfield provided the background of the subject file.

In response to a question from the Board, Administration advised that S. Gagne verbally informed the Planning and Development Department of the surrender of one of her dogs to Parkland County Animal Control Services. Administration clarified that written confirmation of the surrender was provided to the Planning and Development Department by Animal Control Services.

Submission of Applicant/Appellant – Shirley Gagne

The following is a summary of a submission to the Board which also reflects responses to questions from the Board.

S. Gagne questioned why she was not informed by Parkland County of the complaint regarding her dogs. Administration advised the Board that a complaint was received from an adjacent landowner on November 7, 2007 and that a Violation Notice was issued by Animal Control Services on November 9, 2007. Administration further advised that a Stop Order was issued to the registered owner of the subject lands, A. Wesley, on February 28, 2008.

S. Gagne indicated that she spoke with her neighbours and the neighbours have indicated they have no issue with the dogs. S. Gagne believes that Animal Control Services became aware that she owned four dogs when responding to an issue regarding a neighbour's dog. S. Gagne indicated that it was at this time that she received the Violation Notice from Animal Control Services.

In response to a question from the Board, S. Gagne advised that she wishes to keep all three of her dogs as the dogs guard her home and are her companions. S. Gagne indicated that she lives on her own and the dogs alert her if a person is near or on her property. S. Gagne made reference to her appeal letter which sets out her reasons for wishing to keep one additional dog – three dogs in total.

The Board asked S. Gagne why she chose to surrender the Airdale terrier to Animal Control Services. S. Gagne advised that the three American Eskimo dogs have been with her for almost four years and she has a strong bond with them while she has had the Airdale terrier for less than a year. S. Gagne advised that the American Eskimo dogs were purchased from the same breeder and the dogs have been raised together.

In response to a question from the Board, S. Gagne advised that 1.5 acres of the subject lands are fenced with five foot chain link fencing. S. Gagne further advised that the Airdale terrier occasionally would "break through" the fence enabling all of

the dogs to leave the fenced area. S. Gagne indicated that since surrendering the Airdale terrier, the three American Eskimo dogs no longer get out of the fenced area.

The Board asked whether the three dogs are neutered and S. Gagne advised that all three dogs are neutered. In response to questions from the Board, S. Gagne advised that the weight of the dogs is 22 pounds, 23 pounds and 32 pounds and that each of the dogs will be four years of age in the fall.

The Board noted that S. Gagne originally lived in Edmonton and asked whether there was an issue with having three dogs in Edmonton. S. Gagne indicated that there was no issue as Edmonton residents can license up to three dogs.

Summary of Applicant/Appellant – Shirley Gagne

The following is a summary of a submission to the Board.

S. Gagne advised that she loves her dogs as much as she loves her children and urged the Board to grant a Development Permit allowing her to have one additional dog. S. Gagne further advised that in speaking with her immediately adjacent neighbours, none of the neighbours indicated any issue with the three dogs.

The Chairperson thanked those in attendance and closed the Hearing at 4:28 p.m. When asked by the Chairperson whether the Hearing was conducted in a fair manner, the applicant/appellant indicated she was uncertain whether the Hearing was conducted in a fair manner.

A. Story, G. Horsfield and R. Sider left the meeting at 4:30 p.m.

DECISION OF THE BOARD

BOARD'S FINDING OF RELEVANT FACTS:

Based on the relevant information submitted to the Board, the Board finds the following facts:

1. On April 11, 2008 the Development Authority refused Development Permit No. 08-D-065 for the keeping of animals not in accordance with Section 24 of Parkland County's Land Use By-Law No. 15-00 (2 additional dogs – 4 in total) on Lot 2, Block 1, Plan 8120136, Spruce Ridge Properties, S.W. 7-53-2-W5M, Municipal Address: #2, 53111 Range Road 30 for the following reason:
 1. As there have been complaints, the keeping of the additional dogs is having a negative effect on the use and enjoyment of neighbouring lands and the neighbourhood in general.
2. On April 15, 2008 an email was received from Mary Coughlan, Parkland County Animal Control Supervisor, advising that one dog was surrendered to Animal Control Services by the applicant on April 14, 2008.
3. On April 29, 2008 an appeal of the decision of the Development Authority was received from the applicant.
4. On May 13, 2008 notification of the Hearing was sent to the applicant/appellant and adjacent landowners.
5. On May 16, 2008 notification of the Hearing was advertised in the local newspaper.
6. The applicant/appellant, S. Gagne, was present at the Hearing and made a submission to the Board.
7. The Board noted that the applicant/appellant surrendered one dog to Parkland County Animal Control Services on April 14, 2008 and accordingly, is requesting approval for one additional dog.
8. The Board noted that no written material was received from adjacent landowners nor were any adjacent landowners present at the Hearing.

Legislation

The Board finds the following legislation relevant:

1. Parkland County Land Use Bylaw No. 15-00, Section 24.

Reasons

The Board received evidence on a number of issues and will address these issues in the reason which follows:

The Board upholds the appeal for the following reasons:

1. The Board heard that the applicant/appellant surrendered one dog to Parkland County Animal Control Services.
2. The Board noted that no written material was received from adjacent landowners nor were any adjacent landowners present at the Hearing.
3. The Board heard that the three dogs are kept in a fenced area on the subject lands.
4. The Board concluded that the keeping of an additional dog (three in total) does not appear to be having a negative effect on the use and the enjoyment of the neighbouring lands and the neighbourhood in general as no written or verbal submissions was presented to the Board by adjacent landowners.

Motion:

Moved by J. Smith that the Subdivision and Development Appeal Board uphold the appeal and vary the decision of the Development Authority. Therefore, Development Permit No. 08-D-065 for the keeping of animals not in accordance with Section 24 of Parkland County's Land Use By-Law No. 15-00 (1 additional dog – 3 in total) on Lot 2, Block 1, Plan 8120136, Spruce Ridge Properties, S.W. 7-53-2-W5M, Municipal Address: #2, 53111 Range Road 30 is approved subject to the following condition:

1. This Development Permit shall be to allow for three (3) dogs at this time. Once one (1) of the dogs has passed away, or is removed, or is no longer residing on the lands, such dog shall not be replaced.

CARRIED UNANIMOUSLY

A. Story, G. Horsfield and R. Sider returned to the meeting at 4:35 p.m.

4:40 p.m. Appointment

An appeal of a decision of the Development Authority to conditionally approve Development Permit No. 08-D-022 for lot re-contouring on Lot C, Plan 380NY, Pt. S.W. 18-51-25-W4M, Municipal Address: 25527 Township Road 512A, Applicants: Marc and Linda Gallop, Appellants: Jeff Nygaard and Bruce Hurtubise and Iren Hurtubise.

The Chairperson opened the Hearing at 4:40 p.m.

There was no objection to the Board members hearing this appeal and there was no objection to the Acting Secretary of the Board taking part in any private or in-camera sessions with the Board.

G. Horsfield provided the background of the subject file.

It was noted that the appellants were not present at the Hearing. The Acting Secretary of the Subdivision and Development Appeal Board read into the record the letters of the appellants, Jeff Nygaard and Bruce and Iren Hurtubise, as well as a letter submitted by adjacent landowners, Brian and Dolores Carter. It was noted that Mr. and Mrs. Carter's lands are not immediately adjacent to the subject lands.

Submission of Applicant – Marc Gallop

The following is a summary of a submission to the Board which also reflects responses to questions from the Board.

M. Gallop addressed the appellants' concerns as follows:

- Amount of Fill – M. Gallop indicated that the amount of fill to be brought to the subject lands is an estimate of the maximum amount of fill required.
- Previous Flooding – M. Gallop advised that he has owned the subject lands for 13 years. He indicated that 10 years ago there was an issue with water damming at the driveway and after consulting with Parkland County and provincial representatives it was determined that the driveway was impeding the natural drainage. M. Gallop further indicated he obtained the necessary approvals from the province and the County to install a culvert under the driveway to drain the accumulated water. The installation of the culvert allowed the water to drain but also caused flooding on the lands to the east of the subject lands however, since that time there has been no flooding to adjacent lands.

- Drainage – M. Gallop indicated that he met with Parkland County Drainage Foreman, P. Ripski, on site in April, 2008 and P. Ripski advised that the proposed lot re-contouring will not alter the existing drainage pattern. M. Gallop showed photographs of the subject lands indicating the areas which are to be filled.
- Fire Permit – M. Gallop advised that Horizon Earthworks was hired to clear and burn brush on the subject lands and he read into the record a letter dated April 28, 2008 authored by the Operations Manager of Horizon Earthworks. M. Gallop indicated that the Fire Permit was obtained from Parkland County by Horizon Earthworks. M. Gallop further indicated that he contacted his neighbours regarding the proposed burning and provided his telephone number in the event the neighbours had any concerns; no calls were received from the neighbours.

M. Gallop indicated that the intent of the project is to enhance the property.

The Board asked where the properties of the appellants are located in relation to the subject lands. Administration advised that J. Nygaard owns property to the east in Birch Tree Estates and the Hurtubises own property directly west of the subject lands. Administration further advised that the Carters own property in Silver Bell Estates on the west side of Winterburn Road (Range Road 260).

The Board noted that the Carters indicated in their letter that "there are 75% {road} bans in place at present" in reference to Winterburn Road (Range Road 260). The Board indicated that if road bans are still in effect at the time the fill is to be hauled, the number of deliveries may increase due to lighter truck loads. M. Gallop indicated that he believes any road bans in place at present are seasonal bans but is confident road ban restrictions will be followed.

Summary of Applicant – Marc Gallop

The following is a summary of a submission to the Board.

M. Gallop indicated that the proposed project is small project intended to enhance the property.

The Chairperson thanked those in attendance and closed the Hearing at 5:20 p.m. No objection was made by those persons present at the Hearing when asked whether the Hearing was conducted in fair manner.

A. Story, G. Horsfield and R. Sider left the meeting at 5:21 p.m.

DECISION OF THE BOARD

BOARD'S FINDING OF RELEVANT FACTS:

Based on the relevant information submitted to the Board, the Board finds the following facts:

1. On April 14, 2008 the Development Authority **conditionally approved** Development Permit No. 08-D-022 for lot re-contouring on Lot C, Plan 380NY, Pt. S.W. 18-51-25-W4M, Municipal Address: 25527 Township Road 512A.
2. On May 5, 2008 an appeal of the decision of the Development Authority was received from adjacent landowners, Jeff Nygaard and Bruce Hurtubise and Iren Hurtubise.
3. On May 13, 2008 notification of the Hearing was sent to the applicant, appellants and adjacent landowners.
4. On May 16, 2008 notification of the Hearing was advertised in the local newspaper.
5. On May 21, 2008 a letter was received from the applicant, Marc Gallop, responding to concerns raised by the appellants.
6. On May 22, 2008 a letter was received from adjacent landowners, Brian Carter and Dolores Carter, objecting to the conditional approval of Development Permit No. 08-D-022.
7. One of the applicants, Marc Gallop, was present at the Hearing and made a presentation to the Board.
8. Neither the appellants nor any adjacent landowners were present at the Hearing.

9. The Board noted that the Development Permit application was referred to Parkland County's Drainage Foreman, P. Ripski, for comment and a site inspection was conducted. It was noted that in P. Ripski's opinion "the proposed lot re-contouring will not change the existing drainage patterns". It was further noted that P. Ripski suggested that a silt fence be installed to ensure that soil from the re-contoured areas will not wash onto surrounding lands.

Legislation

The Board finds the following legislation relevant:

1. Parkland County Land Use Bylaw No. 15-00, Section 48.

Reasons

The Board received evidence on a number of issues and will address these issues in the reasons which follow:

The Board denies the appeal for the following reasons:

1. The Development Permit application was referred to Parkland County's Drainage Foreman and the Drainage Foreman is of the opinion that "the proposed lot re-contouring will not change the existing drainage patterns". Further, the Drainage Foreman attended the subject lands and conducted a site inspection.
2. The Board is of the opinion that the conditions imposed in the Development Permit are adequate and sufficient regarding the proposed development.

Motion:

Moved by K. Darby that the Subdivision and Development Appeal Board deny the appeal and uphold the decision of the Development Authority to conditionally approve Development Permit No. 08-D-022 for lot re-contouring on Lot C, Plan 380NY, Pt. S.W. 18-51-25-W4M, Municipal Address: 25527 Township Road 512A.

CARRIED UNANIMOUSLY

ADJOURNMENT

Moved by T. Melnyk that the meeting be adjourned at 5:25 p.m.

CARRIED UNANIMOUSLY

CHAIRPERSON