

**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, SEPTEMBER 8, 2008.**

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**CALL TO ORDER**

The Chairperson, B. Forbes, called the meeting to order at 4:00 p.m.

**PRESENT**

Members: K. Darby, B. Forbes, C. Goerz, T. Melnyk, J. Smith and S. Zelych  
Administration: G. Frank, G. Horsfield and C. Kortmeyer  
S. Cammidge (Recording Secretary)

**ADOPTION OF AGENDA**

Moved by C. Goerz that the Agenda of the meeting be adopted as presented.

**CARRIED**

**ADOPTION OF MINUTES**

Moved by K. Darby that the Minutes of the August 25, 2008 Subdivision and Development Appeal Board meeting be adopted as presented.

**CARRIED**

**4:10 p.m. Appointment**

**An appeal of a decision of the Development Authority to conditionally approve Development Permit No. 08-D-192 for proposed accessory building (147.1 sq m – 1584 sq ft workshop) which when combined with existing accessory buildings total 261.2 sq m – 2812 sq ft in combined floor area on Lot 40, Block 2, Plan 4389TR, Cameron Lake Estates, N.E. 1-54-1-W5M, Municipal Address: 40, 54020 SH 779, Appellant: Ignazio Marino, Applicant: Ron DeHaan.**

The Chairperson opened the Hearing at 4:12 p.m. It was noted that the appellant was not present at the Hearing however, the applicant was present.

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

G. Frank, Secretary to the Board, read into the record an email received from the appellant on September 5, 2008 withdrawing his appeal of Development Permit No. 08-D-192.

**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 July 22, 2008 the Development Authority conditionally approved Development Permit No. 08-D-192 for proposed accessory building (147.1 sq m – 1584 sq ft workshop) which when combined with existing accessory buildings total 261.2 sq m – 2812 sq ft in combined floor area on Lot 40, Block 2, Plan 4389TR, Cameron Lake Estates, N.E. 1-54-1-W5M, Municipal Address: 40, 54020 SH 779.
2. On August 11, 2008 an appeal of that decision was received from an adjacent landowner, Ignazio Marino.
3. On August 26, 2008 notification of the Hearing was sent to the applicant, appellant and adjacent landowners.
4. On August 29, 2008 notification of the Hearing was advertised in the local newspaper.
5. On September 3, 2008 a letter enclosing a site plan and photographs was received from the applicant.
6. On September 5, 2008 an email was received from the appellant, Ignazio Marino, withdrawing his appeal of Development Permit No. 08-D-192.
7. On September 8, 2008 the Board heard that the appellant wished to withdraw his appeal of Development Permit No. 08-D-192 as evidenced by his email dated September 5, 2008.

**Motion:**

**Moved by K. Darby that the Subdivision and Development Appeal Board accept the appellant's withdrawal of Development Permit No. 08-D-192 for**

**a proposed accessory building (147.1 sq m – 1584 sq ft workshop) which when combined with existing accessory buildings total 261.2 sq m – 2812 sq ft in combined floor area on Lot 40, Block 2, Plan 4389TR, Cameron Lake Estates, N.E. 1-54-1-W5M, Municipal Address: 40, 54020 SH 779.**

**CARRIED**

G. Horsfield left the meeting at 4:21 p.m.

The Chairperson called a recess at this time. The Chairperson called the meeting back to order at 4:38 p.m. with all previous members present.

**4:40 p.m. Appointment**

**An appeal of a decision of the Subdivision Authority to refuse Subdivision Application No. 08-S-008K for a proposed subdivision on Block 1, Plan 621RS, Evergreen Hills, N.W. 25-51-27-W4M, Municipal Address: 1, 51425 Range Road 271, Applicant/Appellant: Scheffer Andrew Ltd.**

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 Secretary of the Board taking part in any private or in-camera sessions with the Board.

C. Kortmeyer provided the background of the subject file.

**Submission of Appellant – Aime Stewart of Scheffer Andrew Ltd.**

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

A. Stewart made reference to the revised Comprehensive Outline Plan dated September 2, 2008. A. Stewart indicated that the proposed subdivision meets the requirements set out in Section 49(12) of the County's Land Use Bylaw. A. Stewart further indicated that Section 654(2) of the Municipal Government Act allows both the Subdivision Authority and the Subdivision and Development Appeal Board flexibility in approving subdivision applications.

A. Stewart advised that the proposed lots to be subdivided will harmonize with the existing lots in the subdivision as there are some adjacent subdivisions with varying lot sizes. Further, A. Stewart advised that her clients have support from some residents in Evergreen Hills as well as support from residents of neighbouring subdivisions. A. Stewart urged the Board to grant leniency regarding Section 49(11) of the Land Use Bylaw and to approve the subdivision application.

**Submission of Donna Nordstrom**

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

D. Nordstrom advised that she is one of the three registered owners of the subject lands. D. Nordstrom disputed comments made by those people who submitted letters to Parkland County in opposition to the proposed subdivision.

In response to a question from the Board, Administration explained Sections 49(11) and 49(12) of the County's Land Use Bylaw.

**Submission of Janina McCann**

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

J. McCann indicated concerns of traffic, safety and disruption of animal habitats.

In response to a question from the Board, Administration advised that the proposed northerly lot will access onto the internal subdivision road of Evergreen Hills while the two proposed southerly lots will share one access onto Pioneer Road (Range Road 271).

**Submission of Tara Luttamus**

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

T. Luttamus advised that she owns Block 7 in Evergreen Hills and further advised that she supports the proposed subdivision.

**Submission of Roy Cust**

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

R. Cust advised that his property is directly south of the proposed subdivision and further advised that he does not support the proposed subdivision. In response to a question from the Board, R. Cust advised that the removal of trees will affect the soil stability and shelterbelt adjacent to his lands.

**Summary of Appellant – A. Stewart of Scheffer Andrew Ltd.**

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

A. Stewart advised that "by and large" the Comprehensive Outline Plan meets the requirements of the Land Use Bylaw and urged the Board to consider the interpretation of Sections 49(11) and 49(12) of the Land Use Bylaw.

J. Tanasichuk advised that if further information is required that such information will be provided and thanked both Administration and the Board.

No objection was made by those persons present at the Hearing when asked whether the Hearing was conducted in fair manner. The Chairperson thanked those in attendance and closed the Hearing at 5:39 p.m.

C. Kortmeyer left the meeting at 5:40 p.m.

The Chairperson called a recess at this time. The Chairperson called the meeting back to order at 5:43 p.m. with all previous members present.

**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 August 5, 2008 the Subdivision Authority refused Subdivision Application No. 08-S-008K for a proposed subdivision on Block 1, Plan 621RS, Evergreen Hills, N.W. 25-51-27-W4M, Municipal Address: 1, 51425 Range Road 271 for the following reasons:
  1. Pursuant to Section 654(1)(b) of the Municipal Government Act, the application must not be approved since the application does not conform to the provisions of the Parkland County Land Use Bylaw No. 15-00. Section 49(11) of the Land Use Bylaw requires that the proposed lots to be created would be compatible and harmonize with the character of the existing subdivision, and would be similar in size (i.e. no more than 5% smaller than the smallest original parcel in the subdivision), configuration, scale and density to the existing lots within the subdivision. In this instance, the smallest original lot within Evergreen Hills is Block 6 at 4.8 ha (11.96 ac) while the proposed lots are 1.6 ha (3.5 ac) in size.
  2. Administration's site inspection evidenced the subject lands are made up of rolling sandy dunes that may have unstable slopes over 15% gradient. A Slope Stability Assessment and High Water Table Report prepared by Hagstrom Geotechnical Services Ltd. indicated developability limitations but noted that the construction of new residential building will not significantly affect the stability of the slopes provided development is conducted in accordance with the recommendations in the report.
  3. No compelling evidence was presented to the Subdivision Authority to support the applicants' request of variance to Section 49(11) of Parkland County Land Use Bylaw No. 15-00.
  4. The Board noted the lack of support from the residents in the subdivision evidenced by the receipt of three letters from adjacent landowners in opposition to the proposed subdivision. The proposed subdivision would not be compatible and does not harmonize with the character of the existing subdivision. The proposed parcels are 60% smaller than the smallest original parcel.
  5. The Comprehensive Plan submitted with the subdivision application proposes very high parcel density in the northeast boundary of Evergreen Hills and further geotechnical information would be required with respect to high water table. The Board was concerned that the proposed density may affect the water table and negatively impact existing landowners.

2. On August 21, 2008 an appeal of that decision was received from the applicant, Scheffer Andrew Ltd., on behalf of the registered owners.
3. On August 26, 2008 notification of the Hearing was sent to the applicant/appellant, referral agencies and adjacent landowners.
4. On August 29, 2008 notification of the Hearing was advertised in the local newspaper.
5. On August 29, 2008 a letter in support of the proposed subdivision was received from Hans and Edith Rasmussen.
6. On September 2, 2008 a letter in support of the proposed subdivision was received from Tara Luttamus and a letter in opposition to the proposed subdivision was received from James and Frances Wynne.
7. On September 3, 2008 letters in support of the proposed subdivision was received from Egon Quix and letters of opposition were received from Kath McKenzie, Cindy Harris and Calvin Peck, Murray and Janina McCann and John and Betty McCann.
8. On September 3, 2008 a written submission was received from the applicant/appellant.
9. On September 4, 2008 a letter in support of the proposed subdivision was received from G. Stuart Wilson.
10. On September 8, 2008 the applicant/appellant, A. Stewart of Scheffer Andrew Ltd., was present at the Hearing and made a submission to the Board.
11. On September 8, 2008 two of the three registered owners, D. Nordstrom and J. Tanasichuk, were present at the Hearing and made submissions to the Board.
12. On September 8, 2008 J. McCann was present at the Hearing and made a submission to the Board.
13. On September 8, 2008 T. Luttamus was present at the Hearing and made a submission to the Board.
14. On September 8, 2008 R. Cust was present at the Hearing and made a submission to the Board.

#### **Legislation**

The Board finds the following legislation relevant:

1. Parkland County Land Use Bylaw No. 15-00, Sections 49(11) and 49(12); and
2. Municipal Government Act, R.S.A. 2000, c.M-26, Section 654(1)(b).

#### **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 Board is of the opinion that Section 49(11) of the Land Use Bylaw requires that the proposed lots to be created would be compatible and harmonize with the character of the existing subdivision, and would be similar in size (i.e. no more than 5% smaller than the smallest original parcel in the subdivision), configuration, scale and density to the existing lots within the subdivision. In this instance, the smallest original lot within Evergreen Hills is Block 6 at 4.8 ha (11.96 ac) while the proposed lots are 1.6 ha (3.5 ac) in size. The proposed lots are 60% smaller than the smallest original parcel in Evergreen Hills.
2. The Board noted that while Section 49(12) of the Land Use Bylaw states that the resubdivision of an existing lot within a multi-parcel subdivision may only be considered with a Comprehensive Outline Plan, the Board was not satisfied with the Comprehensive Outline Plan submitted by the applicant/appellant.
3. The Board was of the opinion that no compelling evidence was presented to validly support the applicant/appellant's request of variance to Section 49(11) of the Land Use Bylaw.

**Motion:**

**Moved by K. Darby that the Subdivision and Development Appeal Board deny the appeal and uphold the decision of the Subdivision Authority regarding the refusal of Subdivision Application No. 08-S-008K on Block 1, Plan 621RS, Evergreen Hills, N.W. 25-51-27-W4M.**

**CARRIED**

**ADJOURNMENT**

Moved by C. Goerz that the meeting be adjourned at 6:25 p.m.

**CARRIED**

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**CHAIRPERSON**