



# MUNICIPAL DISTRICT OF GREENVIEW No. 16

Hearing held: 07/27/2023  
Appeal of Development Permit Condition 1: D23-096

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## SUBDIVISION & DEVELOPMENT APPEAL BOARD

### NOTICE OF DECISION SUBDIVISION AND DEVELOPMENT APPEAL BOARD

Chair:	Roxanne Perron
Board Member:	Gary Havell
Board Member:	Ken Wilson
Board Member:	Josh McMillan
Board Member:	Rene Moulun
Clerk:	Sarah Sebo

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Applicant/Appellant:

Wanda and Jack Courchene

[REDACTED]  
[REDACTED]  
[REDACTED]

#### I. DECISION

Having been satisfied that notice of this hearing was provided in accordance with the ***Municipal Government Act***, R.S.A. 2000, Chapter M-26; upon having read the materials provided; and upon having heard the representations from the Development Authority, the Appellant/ Applicant, with respect to the appeal filed by the Appellant/ Applicant from the decision of the Development Authority to impose Condition One (1) on Application D23-096 on July 4, 2023, to install a holding tank or modify the existing sewage disposal system to serve as a holding tank at, Plan 932 2348, Lot 11,

Civic Address [REDACTED] (the "Land"). The Greenview Subdivision and Development Appeal Board has decided to DENY the appeal to remove Condition One (1) and approve Development Permit D23-096 by varying Condition One (1) of the Development Permit as follows:

1. The applicant may install a Dwelling Unit, Modular, and connect to the existing sewer service on the property as of the effective date of this Development Permit.
2. The applicant will have 18 (eighteen) months to upgrade the sewer system to a holding tank(s) and connect the Dwelling Unit to the upgraded sewer system, with the deadline being January 25, 2025.
3. The applicant must enter into a Development Agreement with the Municipal District of Greenview No. 16 (Greenview) Development Authority, agreeing to complete all conditions set forth by the Subdivision and Development Appeal Board. The Development Agreement shall be to the satisfaction of the Development Authority and entered into no later than August 31, 2023, and may be registered against title to the Land.
4. The applicant must provide Greenview with a report from an agency accredited by the Safety Codes Council, showing that the holding tank(s) comply with the requirements of the *Alberta Private Sewage Standards of Practice*, no later than January 25, 2025.
5. The Development Permit is valid upon the issuance of the Decision of the Subdivision and Development Appeal Board.

The following conditions of Development Permit D23-096 shall remain in effect:

- a. The Applicant is required to install a holding tank or modify the existing sewage disposal system to serve as a holding tank. The landowner is responsible for regular evacuation, cleaning, and maintenance of the tank, which must meet the tank and installation requirements of the *Alberta Private Sewage Systems Standards of Practice*.
- b. The modular home shall be placed on an engineer-approved foundation, basement, or other method of securing the home which satisfies the requirements of the *Alberta Safety Codes*.
- c. Skirting must be installed within ninety (90) days from the date from which the modular home is placed on the foundation.
- d. The exterior of the modular home shall be finished within one (1) year of placement. All finish material shall either be factory fabricated or of equivalent quality so that the design and construction complement the dwelling.

## II. PROCEDURAL MATTERS

6. Pursuant to Section 686(1) of the *Municipal Government Act* the appeal was filed within the 21 day appeal period following the refusal of the Development Authority.
7. Pursuant to Section 686(2) of the *Municipal Government Act* the SDAB gave notice of the appeal to the Applicants/Appellant, the Development Authority, Members of the SDAB,

Adjacent Land Owners required to be notified under the Land Use Bylaw and the *Municipal Government Act*, and any Referral Agencies on Title.

8. The Chair asked the Board Members if they felt they should disqualify themselves from hearing the appeal. No Board Members recused themselves.
9. The Chair confirmed with the parties in attendance that there was no opposition to any members of the Board Hearing the Appeal.
10. The Chair outlined how the hearing would be conducted, including the order of appearance of parties, and no opposition was noted.
11. Following the hearing proceedings, the Chair asked the Appellant/Applicant if they felt they had a fair chance to state their case before the Board. The Appellant/Applicant responded in the affirmative.

### III. SUMMARY OF EVIDENCE

#### Development Authority

12. Development Application D23-096 was received on June 5, 2023, requesting the installation of a Dwelling Unit, Modular, for a Primary Residence at Plan 932 2348, Lot 11. The Applicant applied for the Development Permit after their residence was destroyed in the Sturgeon Lake Complex Fire (GCC001).
13. The property is located in the Eastside Holdings area and designated Country Residential 3 (CR-3). The CR-3 District lists the Dwelling Unit, Modular use as a permitted use in *Greenview's Land Use Bylaw 18-800*. The Eastside Holdings area is located within the *Sturgeon Lake Area Structure Plan, Bylaw 20-865*.
14. The existing sewer service on the property consists of a pump-out type system. Section 8.2 Servicing, of the *Sturgeon Lake Area Structure Plan*, requires all developments to provide holding tanks or composting toilets for sewage disposal for new residential development.
15. In accordance with section 8.2.1 of the *Sturgeon Lake Area Structure Plan* developments to reconstruct shall be approved with a condition requiring a sewage holding tank be installed.
16. To comply with the *Sturgeon Lake Area Structure Plan* in effect at the time, a condition (condition one) was placed on the development decision requiring that the applicant install a holding tank or modify the existing sewage disposal system to serve as a holding tank.
17. The Development Authority determined that no notifications were required to be circulated to adjacent landowners. No comments or concerns were received in regard to the Development application.
18. On July 4, 2023, a Notice of Decision was emailed and mailed to the Applicant approving the Development Permit, subject to the following conditions:
  - a. The Applicant is required to install a holding tank or modify the existing sewage disposal system to serve as a holding tank. The landowner is responsible for regular evacuation, cleaning, and maintenance of the tank, which must meet the tank and

installation requirements of the *Alberta Private Sewage Systems Standards of Practice*.

- b. The modular home shall be placed on an engineer-approved foundation, basement, or other method of securing the home which satisfies the requirements of the *Alberta Safety Codes*.
  - c. Skirting must be installed within ninety (90) days from the date from which the modular home is placed on the foundation.
  - d. The exterior of the modular home shall be finished within one (1) year of placement. All finish material shall either be factory fabricated or of equivalent quality so that the design and construction complement the dwelling.
- 19.** The Applicant agreed to upgrade the existing sewage system to a holding tank to satisfy the provisions of the Sturgeon Lake Area Structure Plan.
- 20.** July 7, 2023, the Applicant informed the Development Officer that condition one (1) would not be satisfied.
- 21.** The Applicant filed and paid for a Subdivision and Development Appeal Application on July 12, 2023.

#### **Land Use Bylaw District for the Lands**

- 22.** In accordance with Greenview's *Land Use Bylaw 18-800*, the subject land is designated as Country Residential 3 (CR-3). The proposed development meets the fundamental land use criteria set out within the District. The proposal anticipates no negative development or land use impacts. The proposed use will be compatible with existing surrounding developments.
- 23.** 5.27.7 states, "All manufactured homes shall be serviced by a water supply, sewage system, and utilities to the satisfaction of the Development Authority".

#### **Municipal Development Plan**

- 24.** In accordance with Greenview's Municipal Development Plan, the subject land meets the objectives set out in section 4 County Residential, 4.2 Objectives, stating the following:
- a. To ensure that multi-lot country residential developments are properly serviced and situated in appropriate locations.
  - b. To meet the need and demand for properly serviced country residential lots throughout Greenview.
  - c. To ensure that country residential development does not negatively impact surrounding land uses or local infrastructure.

#### **The Sturgeon Lake Area Structure Plan**

25. The Sturgeon Lake Area Structure Plan was approved in 2020 and applies to the Lands. Waiving condition one (1) of Development Permit D23-096 contravenes sections 8.2.1 and 8.2.6 of the Sturgeon Lake Area Structure Plan.

8.2.1. "Greenview shall require all developments to provide holding tanks or composting toilets for sewage disposal for:

- a. New residential development or subdivision located within a Development Area,
- b. New development or subdivision, including vacant first parcels out and the resubdivision of existing lots in the ASP area but outside a Development Area if the proposed sewage system is located within 91 m (300 ft) of a permanent watercourse that drains to the lake. It is intended that all holding tanks be installed at locations that are easily accessible for a vacuum truck and are to be pumped out regularly for disposal at a licensed facility."

8.2.6. "In the case of existing development, Greenview encourages the upgrading of existing sewage facilities. To this end, as existing developments require development permits to renovate, reconstruct or enlarge, such permits shall be approved with a condition requiring that a sewage holding tank be installed in accordance with Section 8.2.1."

#### **In Favour of the Appeal: Applicant/Appellant Jack and Wanda Courchene**

26. Jack and Wanda Courchene iterated that the existing sewer system has been in place since they purchased the property in 1998.

27. Stated that they are not redeveloping the property, only replacing the home lost in the Sturgeon Lake Complex Fire (GCC001).

28. Stated that the existing sewer system is in good working condition and that the house is intended to be connected to all of the existing utilities (power, gas, water).

29. Clarified that others in the vicinity have sewage systems that do not meet the current standards within the Sturgeon Lake Area Structure Plan.

30. Clarified that the current sewer system only pumps out grey water and is one hundred and sixty (160) meters from any roadway and five hundred (500) meters from Sturgeon Lake.

31. Expressed frustration over the additional costs associated with upgrading the sewer system.

#### **In opposition to the Appeal**

No Presentations were made in opposition to the appeal.

#### **IV. FINDINGS OF FACT**

32. The Board received and considered the following information:

- a) Municipal District of Greenview SDAB Package including:
  - i) Hearing Agenda
  - ii) July 12, 2023 Appeal letter
  - iii) Development Application

- iv) Development Authority Submission.
- v) Land Use Bylaw No. 18-800 Section 5.21.7 (General Regulations), Section 4.2 (Country Residential)
- vi) Municipal Government Act 685(1) (Grounds for Appeal)
- vii) Sturgeon Lake Area Structure Plan 8.2.1, 8.2.2, 8.2.6 (Servicing)

a) Exhibits:

A: Development Officer's Report

33. The Board received no other written submissions either in favour or in opposition to the Appeal.

### **Municipal Government Act**

34. Section 687(3) of the Municipal Government Act R.S.A 2000, Chapter M-26 states:

- 687(3)** In determining an appeal, the board hearing the appeal referred to in subsection (1)
- (a.1) must comply with any applicable land use policies;
  - (a.2) subject to section 638, must comply with any applicable statutory plans;
  - (a.3) subject to clauses (a.4) and (d) must comply with any land use bylaw in effect;
  - (a.4) must comply with the applicable requirements of the regulations under the *Gaming, Liquor and Cannabis Act* respecting the location of premises described un a cannabis licence and distances between those premises and other premises;
  - (b) must have regard to but is not bound by the subdivision and development regulations;
  - (c) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;
  - (d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,
    - (i) the proposed development would not
      - (A) unduly interfere with the amenities of the neighbourhood or
      - (B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,
    - (ii) the proposed development conforms with the use prescribed for that land or building in the land use bylaw.

35. The Appellants had the right to appeal under Section 685(2) of the Municipal Development Act:

**685(2)** in addition to an applicant under subsection (1), any person affected by an order, decision, or development permit made or issued by a development authority may appeal to the subdivision and development appeal board.

## **Land Use Bylaw 18-800**

- a) The subject land is designated as Country Residential 3 (CR-3) District.
- b) Manufactured homes sewage system services must meet the satisfaction of the Development Authority. The SDAB recognizes that waiving Condition 1 (one) contravenes section 5.27.7.

## **Sturgeon Lake Area Structure Plan**

- a) 8.2 Greenview requires Development Permits for new development, renovations, reconstruction and enlarging development to install a sewage holding tanks as a condition of approval.

## **V. REASONS FOR DECISION**

- a) The Appellants rightfully submitted an appeal under Section 685(2) of the Municipal Government Act.
- b) The SDAB is extending the timeframe that the landowner has to comply with Condition One (1) as the Sturgeon Lake Complex Fire (GCC001) was an unprecedented natural disaster resulting in undue hardship on the landowner.
- c) The SDAB is upholding the Development Authority's requirement to upgrade the sewer system to a holding tank as it complies with the Land Use Bylaw and Sturgeon Lake Area Structure Plan.
- d) The SDAB recognizes the need for environmental protection within the Sturgeon Lake Area community and acknowledges the environmental benefits of upgrading to a holding tank from a pump out sewer system.

### **Summary**

For the above reasons, the Board has determined to DENY the appeal, and alter condition one (1) of the Development Authority and has determined to approve Development Application D23-096 to Jack and Wanda Courchene subject to the conditions stated above.

## **VI. CLOSING**

This decision can be appealed to the Court of Appeal on a question of law or jurisdiction. If you wish to appeal this decision, you must follow the procedure found in Section 688 of the **Municipal Government Act**, R.S.A. 2000 Chapter M-26 which requires an application for leave to appeal to be filed and served **within 30 days** of this decision.

Dated at the Town of Valleyview, in the Province of Alberta this 4<sup>th</sup> day of August 2023 and signed by the Municipal District of Greenview Subdivision and Development Appeal Board Chair, who agrees that the content of this document adequately reflects the appeal hearing, deliberations and decision of the Municipal District of Greenview Subdivision and Development Appeal Board.



Roxanne Perron, Chair



Sarah Sebo, Clerk

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cc: Wanda Courchene, Jack Courchene, Alysse Barks, Development Officer, File