



Municipal District of Bighorn No. 8

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DECISION OF THE SUBDIVISION/DEVELOPMENT APPEAL BOARD

Hearing: Thursday, November 4, 2021

Subdivision Approval SB2021-003, Greg Birch (Appellant)

I. Decision

For the reasons outlined below, the Subdivision and Development Appeal Board (the “Board”) grants the appeal of the Appellant, acting as agent for the property owner, Cheryl and Wayne Dick, to remove Condition 8 from Subdivision Approval SB2021-003 located on a Portion of the SE ¼, Section 32, Township 26, Range 6 (Baymar Road), hereinafter referred to as “the subject property”.

The conditions of approval for SB2021-003 are amended by removing Condition 8:

1. The Developer shall provide or enter into an agreement with the Municipal District to register a caveat for the future provision of a 5.0 metre strip of land along the north and east boundaries of the existing parcel along Baymar Road and Courville Road for road expansion.
2. The numbering for all conditions following Condition 8 shall remain the same.

II. Background

The Board heard an appeal from Greg Birch (the Appellant), with respect to the Approving Authority’s Notice of Decision for Subdivision Application SB2021-003.

The subject property is located on a Portion of the SE ¼, Section 32, Township 26, Range 6 (Baymar Road), within the Small Holdings District (SH). The Subdivision Approving Authority approved a two lot subdivision on the subject lands with twelve conditions of approval, including Condition 8 that requires the landowner to provide a 5.0 metre strip of land along Baymar and Courville Roads for future road widening.

Under the Section 662(1) of the Municipal Government Act: *“A subdivision authority may require the owner of a parcel of land that is the subject of a proposed subdivision to provide part of that parcel of land for the purposes of roads, public utilities or both.”*

The Development Planner issued a Notice of Decision for Subdivision Application SB2021-003 dated September 15, 2021. The Applicant submitted the appeal of the Notice of Decision on October 4, 2021 to the Subdivision and Development Appeal Board.

The Board heard the appeal using video conferencing (TEAMS) on November 4, 2021. The Appellant and the Landowners were present at the hearing. The Board heard from the Appellant, Landowners, Development Planner Jenny Kasproicz and public attendees (Roy Diehl and Susan Carpenter and Timothy and Georgia Taylor) regarding the Notice of Decision. Several documents were submitted to the Board, as follows:

- Copy of the Notice of Decision for Subdivision Application SB2021-003 issued on September 15, 2021;
- Copy of the Letter of Appeal from the Landowners received October 4, 2021;
- Copy of Subdivision Application SB2021-003;
- Copy of Certificate of Title;
- Maps showing the Subject Property;

- Presentation by Birch Consulting in support of the appeal;
- Development Planner presentation.

Issues Raised

The Board and Appellant discussed the following reasons for the landowners concerns with Condition 8 of the Subdivision Approval SB2021-003:

- The Appellant made a short presentation to the Board and described the conditions of the existing paved and gravel roads bordering the subject property;
- The Appellant noted that there is sufficient right-of-way on both roads bordering the property and there is room for another 2 metres of asphalt without touching the ditches on Courville and Baymar Roads.
- The Appellant stated vehicle traffic is minimal and the roads are not very long and dead end because of the topography in the area.
- The Appellant stated Jamieson Road needs widening at the west-end as there will be more subdivisions in the long-term, but there is no development potential on Baymar and Courville Roads except for four more lots.
- The Appellant did not dispute the right of the municipality to take land for road widening.
- The Development Planner said it is common practice to take land for future road widening and that modern standards require a larger right-of-way.

III Reasons for Decision / Findings of Fact

The reasons for the Board's decision to remove Condition 8 of the Subdivision Approval:

- The Board felt that requiring the additional lands for future road widening was not warranted as there was limited potential for future development that would necessitate the road widening on Baymar and Courville Roads.
- The limited amount of traffic and the width of the existing roadways precludes the need for additional land to be taken from the subject property.
- The Board noted that adjacent neighbours support the Landowners' appeal.

The findings of facts are as follows:

- There were no verbal or written support for the decision of the Subdivision Authority.

November 9, 2021
DATE


CHAIRMAN,
SUBDIVISION/DEVELOPMENT APPEAL BOARD

A decision of the Subdivision/Development Appeal Board is final and binding on all parties and persons subject only to an appeal upon, or questions of jurisdiction or law pursuant to, Section 688 of The Municipal Government Act, SA 2000, as amended. An application for leave to appeal to the Appellate Division of the Court of Alberta shall be made to a judge of the Appellate Division within THIRTY (30) days after the issue of the order, decision, permit or approval sought to be appealed.