

2024 Subdivision and Development Appeal Board Information Guide

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Subdivision and Development Appeal Board
Legislative Services, Town of Stony Plain
4905 51 Avenue
Stony Plain, AB T7Z 1Y1
780.963.2151

Subdivision and Development Appeal Board

The Subdivision and Development Appeal Board (SDAB) Board hears and makes decisions on appeals related to Stop Orders, Development and Subdivisions. The Board is appointed by Town Council and consists of one Council Member and citizens living in Stony Plain. The SDAB meets as required on Thursdays in the Town Office. Once you have met the requirements and filed a proper appeal, this Board presides over your hearing.

The SDAB is a statutory body intended to perform an independent adjudicative function that hears complaints and functions like a court. It is an administrative Board mandated by the *Municipal Government Act* and created by a municipality to carry out appropriate functions and procedures.

The SDAB exercises quasi-judicial functions. This means that they make finding of fact based on evidence and then, apply legal rules, as found in the legislation and the planning documents, to those findings. This process allows the SDAB to make a decision on a subdivision or a development matter after conducting a hearing fairly and in accordance with legislation, administrative law, and the principles of natural justice. The SDAB decisions are final and cannot be overturned unless the board makes an error in some aspect of law or jurisdiction.

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Filing a Subdivision or Development Appeal

The Subdivision and Development Appeal Board (SDAB) hears and makes decisions on appeals related to Stop Orders, Subdivisions and Developments.

Grounds for an Appeal

A decision related to a subdivision application can be appealed by the applicant, government department or a school board. A subdivision application may not be appealed by the public.

You can appeal the Subdivision Authority's decision if:

- Your application for a subdivision has been refused
- Your application for a subdivision was approved with conditions that are unacceptable to you
- A Subdivision Authority fails or refuses to make a decision on an application for subdivision approval within 60 days of the application being deemed complete, or after 20 days has lapsed since it was received

A decision related to a development permit application can be appealed by people who may be affected by a decision of the Development Authority.

You can appeal a Development Authority's decision if:

- Your application for a development permit has been refused
- Your application for a development permit was approved with conditions that are unacceptable to you
- You will be affected by a new development, or new use of someone else's property
- A Development Authority refuses or fails to issue a development permit to a person within 40 days of the application being deemed complete, or after 20 days has lapsed since it was received
- You have been issued a Stop Order directing you to stop construction or stop the present use of your property

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Filing an Appeal

Before filing an appeal, talk to the applicant and consult the [Town's Planning and Infrastructure Department](#) to ensure that you have all the information about the proposed development or subdivision. The [SDAB Clerk](#) is available to answer questions about the appeal process. If you require further assistance, it is recommended that you seek legal advice.

To appeal a decision, you must submit a completed appeal form and pay the required fee within 21 days of the date of the notice of decision. There is an appeal form available from Legislative Services. If an appeal arrives after the 21 day deadline, the Board will decide whether or not it has the right to hear the appeal.

All documentary or photographic evidence and a summary of testimonial evidence must be submitted seven (7) days prior to the hearing for inclusion in the hearing package to the Board. It is at the discretion of the Board to accept any evidence filed beyond the deadline date at the hearing. All submissions will become part of the public record and are posted on the Town website.

The SDAB hearing an appeal on a subdivision or development matter must hold the hearing within 30 days of receiving a Notice of Appeal.

On behalf of the Board, the SDAB Clerk shall, give at least five (5) days written notice of an appeal hearing on a subdivision or development matter to the Appellant; the Applicant, Development Authority; and those landowners affected, pursuant to Section 679 and 686(3), Part 17 of the *Municipal Government Act*.

The SDAB Clerk shall make available for public inspection, before the commencement of the hearing all relevant documents and materials respecting the Appeal.

Appeal Fees

An appeal fee is required for each of the following appeals to the Subdivision and Development Appeal Board as per the Town's Fees and Charges Bylaw.

Development Permit – low and medium density residential	\$100.00
Development Permit – high density, commercial, industrial, future development	\$500.00
Subdivision	\$300.00
Stop Order	\$500.00
Sign Permits – billboard or electronic	\$300.00
Sign Permits – freestanding, portable, etc.	\$200.00

The appropriate fee must accompany your appeal or it is not considered complete and will not be processed.

Appeal fees may be paid by cheques payable to Town of Stony Plain. Appeal fees may also be paid by using VISA, MasterCard, Debit or Cash in person at the Town Office, 4905-51 Ave, Stony Plain, Alberta.

Preparing for your Hearing

Here are some suggestions for preparing your presentation for the SDAB hearing:

- Determine the relevant planning issues associated with the appeal. Examples include compliance or non-compliance with the Land Use Bylaw, site context, site layout, parking, traffic, building mass, privacy, shadowing, landscaping, intensity of use, and noise. Examples of non-relevant issues that are outside the Board jurisdiction and cannot be considered by the Board include precedence, business competition, comments regarding someone's character, financial impact on the applicant, financial status of the applicant and whether the development is occupied by renters or owners.
- It is the responsibility of the applicant to present evidence to support their application or respond to the issues raised by the Appellant(s) or affected parties. The applicant should not rely on the Development/Subdivision Authority to make the case for them.
- At the beginning of your presentation introduce yourself for the record and state your position (in favor or opposition of the appeal).
- Speak to the presiding Chair or through the Chair.
- Stick to the planning facts and support them with quantifiable (measurable) data.
- Present your opinion regarding any errors in fact or interpretation.
- Be prepared to summarize your presentation and answer questions of clarity.
- In order to assist the Board in understanding your position and the proposal, you may wish to provide photographs, well prepared drawings, or written submissions to the hearing as documentary evidence.
- Ask neighbours affected by the proposed development to speak on your behalf at your hearing and/or write letters outlining their position in support or objection.
- You may seek professional advice or ask someone else to present your case. However, citizens often represent themselves. If there is doubt as to whether the Board has the legal right to hear the Appeal, you may want to seek professional advice.
- Review the SDAB hearing agenda provided.
- Your co-operation and attendance at the hearing will prevent any unnecessary delays for the Board and will help the Municipality use resources effectively. By attending the hearing, the Board is in a position to ask you questions (if any).

Important:

You **must not speak** to any Members of the Subdivision and Development Appeal Board about an appeal or a potential appeal prior to the hearing because this will disqualify them from participating in the hearing. Board members do not discuss appeal cases with the Development Authority or the Subdivision Authority before the hearings.

Hearing Process

Before the appeal hearing begins, those persons who wish to speak or receive a written copy of the Board's decision, are asked to sign in with the SDAB Clerk.

- The Chair of the SDAB will open the hearing and ask the Appeal to be introduced by the SDAB Clerk, who reads the Appeal into the hearing record.
- Where a development permit has been refused, the Development Authority is heard first, followed by the Appellant.
- Where a development permit has been approved, the Development Authority is heard first, followed by the Appellant and the Respondent.
- In a subdivision appeal, the Subdivision Authority is heard first, followed by the Appellant.
- The Appellant is asked to summarize their reasons for the Appeal and may have others to speak to support their position. Board Members may ask questions of clarity.
- The Respondent and other persons in attendance at the hearing with an interest in the appeal will then present their arguments and respond to any questions of the Board.
- The Chair will ask if the Appellant wishes to make a closing statement.
- The hearing is then closed and the Board goes in to a meeting closed to the public to discuss the appeal.
- The Board will present its decision and reasons **in writing** within 15 days of the hearing.
- A decision of the SDAB is not final or binding until the decision is issued, **in writing**, within 15 days of the appeal hearing.

The Board does not seek information or evidence on its own initiative. The Board relies on the submitted evidence presented and verbal submissions at the hearing, as the basis for their decision. Therefore, it is critical that persons appearing before the Board ensure that sufficient evidence is presented to support their respective positions.

When presenting an Appeal, keep in mind the Board does not consider precedent when making its decision. Each application is judged on its own merits. The reason is, the Board has no way of knowing if sites presented as a precedent were built with or without the benefit of a development permit, or whether they have another status under the Town's Land Use Bylaw.

Exhibits used during a presentation become part of the Board's record of the hearing and must be retained by the Board at the conclusion of the hearing.

Postponing or Not Attending Your Hearing

You may submit a written request to postpone the SDAB hearing including the reasons for the request, either to the Board at the time of the hearing or to the SDAB Clerk prior to the hearing. Hearings will only be postponed at the discretion of the Board.

If you are not in attendance when your appeal is called, the Subdivision and Development Appeal Board may proceed without you. The Board will consider the information presented on the appeal form, any written submissions received, hear presentations from anyone in attendance, and then make a ruling on the appeal.

It is important that you describe your position clearly and in detail on your appeal form or file a written submission ahead of time if you cannot be at the hearing.

Withdrawal of an Appeal

A withdrawal should be submitted in writing to the SDAB Clerk as soon as possible. Your cooperation will prevent any unnecessary delays for the Board and will help the Town of Stony Plain use its resources more effectively. The appeal fee will not be refunded once the appeal hearing has been advertised on the Town's website or in the Stony Plain Reporter.

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Membership and Recruitment

Current 2024 Membership List

- Councillor Justin Laurie
- Councillor Eric Meyer (Alternate)
- Donna Hayward, Citizen-at-Large Member
- Tim Monds, Citizen-at-Large Member
- Lorelee Johnson, Citizen-at-Large Member
- Jennifer Badry, Citizen-at-Large Member
- Nico Wyngaarden, Citizen-at-Large Member

You must not speak to members of the Subdivision and Development Appeal Board about an appeal or a potential appeal prior to the hearing because this will disqualify them from participating in the hearing. Board members do not discuss appeal cases with the Development Authority or the Subdivision Authority before the hearings.

Recruitment Process

The Town of Stony Plain invites a pool of up to seven Town of Stony Plain citizens to serve on the Subdivision and Development Appeal Board for alternating three-year terms. Legislative Services coordinates recruitment campaigns to fill citizen-at-large vacancies.

Council Members are appointed to serve on the Subdivision and Development Appeal Board at the annual Organizational Council Meeting held in October.

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Agendas and Decisions

The SDAB agenda and hearing package is distributed to the Board, the Development or Subdivision Authority, the Appellant, and the Applicant by 1:00 p.m. on the Monday immediately preceding the scheduled hearing date. Affected parties may receive an SDAB hearing package by making a request to the SDAB Clerk. Appellants and/or Applicants will provide contact information to the SDAB Clerk to ensure that they receive communication for when the SDAB Agenda Package will be available for pick up at the Town Office.

The SDAB tentatively schedules its meeting for the third Thursday of each month. These dates are subject to change and it is recommended that interested parties contact the SDAB Clerk to confirm hearing dates. Meetings of the SDAB begin at 6 p.m. in the Council Chambers, Town Office at 4905 51 Avenue Stony Plain, Alberta.

Appealing the SDAB Decision

SDAB decisions are final unless it can be shown that the Board erred in law or jurisdiction. You may appeal the Board's decision to the Alberta Court of Appeal. You must apply to appeal a decision of the Subdivision and Development Appeal Board within 30 days of the date that the written decision was issued.

Enforcing the SDAB Decision

The Enforcement Services Section of the Community and Protectives Services Department enforces the bylaws, including the decisions made by the Subdivision and Development Appeal Board (SDAB). If you have a bylaw complaint, please contact Enforcement Services at 780-963-8650.

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