

Notice of Appeal

(Pursuant to Section 28 of the *Planning Act*)



TO: The Island Regulatory and Appeals Commission
 National Bank Tower, Suite 501, 134 Kent Street
 P.O. Box 577, Charlottetown PE C1A 7L1
 Telephone: 902-892-3501 Toll free: 1-800-501-6268
 Fax: 902-566-4076 Website: www.irac.pe.ca

NOTE:
 Appeal process is a public process.

TAKE NOTICE that I/we hereby appeal the decision made by the Minister responsible for the administration of various development regulations of the **Planning Act** or the Municipal Council of _____ (name of City, Town or Community) on the 27th day of June, 2023, wherein the Minister/Community Council made a decision to deny our application to subdivide a lot for residential use from property #896787 as this lot was created in 2001 so is not an "existing parcel of land" and no one shall subdivide a parcel of land that is on a collector highway unless it is an parcel of land. (attach a copy of the decision).

AND FURTHER TAKE NOTICE that, in accordance with the provisions of Section 28.(5) of the *Planning Act*, the grounds for this appeal are as follows: (use separate page(s) if necessary)

see attached

AND FURTHER TAKE NOTICE that, in accordance with the provisions of Section 28.(5) of the *Planning Act*, I/we seek the following relief: (use separate page(s) if necessary)

see attached

EACH APPELLANT MUST COMPLETE THE FOLLOWING: (print separate sheets as necessary)

Name(s) of Appellant(s): Judi Gosbee Signature(s) of Appellant(s): JUDI GOSBEE
Please Print

Mailing Address: 9633 Normans Road City/Town: Murray River
 Province: Prince Edward Island Postal Code: C0A1W0
 Email Address: jcgosbee@icloud.com Telephone: 9023802300

Dated this 4th day of July, 2023.
day month year

IMPORTANT

Under Section 28.(6) of the *Planning Act*, the Appellant must, within seven days of filing an appeal with the Commission serve a copy of the notice of appeal on the municipal council or the Minister as the case may be.

Service of the Notice of Appeal is the responsibility of the Appellant

Information on this Form is collected pursuant to the *Planning Act* and will be used by the Commission in processing this appeal. For additional information, contact the Commission at 902-892-3501 or by email at info@irac.pe.ca.

Notice of Appeal

(Pursuant to Section 28 of the *Planning Act*)

TO: The Island Regulatory and Appeals Commission
National Bank Tower, Suite 501, 134 Kent Street
P.O. Box 577, Charlottetown PE C1A 7L1
Telephone: 902-892-3501 Toll free: 1-800-501-6268
Fax: 902-566-4076 Website: www.irac.pe.ca

NOTE:
Appeal process is a public process.

TAKE NOTICE that I/we hereby appeal the decision made by the Minister responsible for the administration of various development regulations of the **Planning Act** or the Municipal Council of _____ (name of City, Town or Community) on the 27th day of June, 2023, wherein the Minister/Community Council made a decision to deny our application to subdivide a lot for residential use from property #896787 as this lot was created in 2001 so is not an "existing parcel of land" and no one shall subdivide a parcel of land that is on a collector highway unless it is an parcel of land. (attach a copy of the decision).

AND FURTHER TAKE NOTICE that, in accordance with the provisions of Section 28.(5) of the *Planning Act*, the grounds for this appeal are as follows: (use separate page(s) if necessary)

see attached

AND FURTHER TAKE NOTICE that, in accordance with the provisions of Section 28.(5) of the *Planning Act*, I/we seek the following relief: (use separate page(s) if necessary)

see attached

EACH APPELLANT MUST COMPLETE THE FOLLOWING: (print separate sheets as necessary)

Name(s) of Appellant(s): Robert Gosbee Signature(s) of Appellant(s): [Signature]
Please Print

Mailing Address: 9633 Normans Road City/Town: Murray River
Province: Prince Edward Island Postal Code: C0A1W0
Email Address: jcgosbee@icloud.com Telephone: 9023802300

Dated this 4th day of July, 2023
day month year

IMPORTANT
Under Section 28.(6) of the *Planning Act*, the Appellant must, within seven days of filing an appeal with the Commission serve a copy of the notice of appeal on the municipal council or the Minister as the case may be.
Service of the Notice of Appeal is the responsibility of the Appellant
Information on this Form is collected pursuant to the *Planning Act* and will be used by the Commission in processing this appeal. For additional information, contact the Commission at 902-892-3501 or by email at info@irac.pe.ca.

Supplemental to Notice of Appeal to IRAC planning division from Judi and Robert Gosbee of 9633 Normans Road, Murray River, PEI C0A1W0.
Application to appeal the denial of the application to subdivide a residential lot at PID# 896787

Grounds for appeal are as follows.....

The decision appears to be made on the basis of regulations on paper from the 1970's. There are no plans for further development with this application. It is simply to separate a 20 year old house with its own driveway from the rest of the lot containing a 21 year old boat building, also with its own driveway.

We had the house alone on the market, with a realtor, initially back in 2020 and had a tentative deal with Ontario buyers who stated they hoped we had a surveyor on "speed dial". So we contacted Delta Surveyors who surveyed it for us and we paid their \$2000 bill. Subsequently the deal fell through and we decided to take the house off the market.

At no point did either our realtor or the surveyor say we should get government approval first, we counted on them for their expertise and they failed us, but only 10 days ago did we realize this when our government approval was denied.

Now in 2023 we put the house on the market again, got a buyer right away, with a closing date of August 21st, and are committed this time to selling the house. We learn from our lawyer that the subdivision was never "registered with /approved by" the province, I submit the application right away and was devastated when it came back denied.

There is nothing about this that explains/justifies the denial other than old regulations on paper from the 1970s. There are no plans for further development/driveways on either proposed lots. There are no sight line issues. Each building on the lot has had its own driveway for years without issue. The speed limit is 50 km/hour in front of our property, as it is throughout the community of Murray River, which is designated infilling.

Our request is simply an invisible line to be drawn between 2 buildings so myself, Robert, our children, and our buyers can get on with our life plans. This decision has been quite frankly devastating for us, the trickle effects are significant and many.

We seek the following relief.....

We request that the denial for subdivision be overturned.

We request that the Department of Transportation designate the section of Normans Road/Route 4 in front of our property as infilling collector highway, so this denial of subdivision can be overturned.

We request this decision be expedited as we have buyers who expect a closing date of August 21st.

We request you understand that although we should have done a better job at finding out the proper order of seeking subdivision approval (government approval THEN surveyor work), we depended on those who should know better to inform us but unfortunately they did not.



Agriculture
and Land

Agriculture
et Terres



Land Division

31 Gordon Drive
PO Box 2000, Charlottetown
Prince Edward Island
Canada C1A 7N8

Division de terres

31, promenade Gordon
C.P. 2000, Charlottetown
Île-du-Prince-Édouard
Canada C1A 7N8

June 27, 2023

Judi & Robert Gosbee
9633 Normans Road
Murray River, PE C0A 1W0

Dear Mr & Mrs Gosbee:

Subject:	Application to Subdivide a Residential Lot
Property ID #:	896787
Property Location:	Normans Road, Murray River, Kings County
Our File References:	Case # 64072

The Department of Housing, Land and Communities has reviewed your application to subdivide a lot for Residential Use from Property #896787, application received on June 5, 2023 located in Murray River.

A. The Application

Subdivision: The Subject Property is currently used for Residential (single-unit) dwelling use. The application was submitted to subdivide a residential lot along the Normans Road which is classified as a Collector Highway.

B. Decision

The Subject Property is within a geographic area where land use and development is not regulated by a local official plan or zoning by-law. Therefore, the Subject Property falls within the jurisdiction of this Department. Land use and development are regulated by the *Planning Act* Subdivision and Development Regulations and other provincial laws and regulations.

Pursuant to clause 6(c) of the *Planning Act* and subsections 3.(1)(a) & 25.(3) of the *Planning Act* Subdivision and Development Regulations, the above noted application is Denied. The reasons for this decision are explained in detail below.

C. Reasons

The *Planning Act* Subdivision and Development Regulations provide provisions for the subdivision of a parcel of land along a collector highway as per Section 25.(3). Property #896787 was created in 2001 as Lot B in Case #19718C, meaning that it is not an existing parcel of land. An existing parcel of land is defined in Section 1.(h) as lot that was in existence prior to February 3rd, 1979. Section 25.(3) states that, "No person shall subdivide a parcel of land that abuts, and requires access to, a collector highway, unless it is an existing parcel of land." As property #896787 is not an existing parcel of land, it cannot be subdivided under the current regulations. Please refer to the *Planning Act* Subdivision and Development Regulations sections 1.(h), 3.(1)(a) & 25.(3)(b).

***Planning Act* Subdivision and Development Regulations:**

1.(h) "existing parcel of land" means any parcel of land or lot in existence prior to February 3, 1979

**3. (1) No person shall be permitted to subdivide land where the proposed subdivision would
(a) not conform to these regulations or any other regulations made pursuant to the Act;**

25.(3) No person shall subdivide a parcel of land that abuts, and requires access to, a collector highway, unless it is an existing parcel of land.

D. Right of Appeal

Notice of this decision will be posted on the PEI Planning Decisions website. We suggest typing "PEI Planning Decisions" into your internet search engine to link to the website.

Please be advised that pursuant to section 28 of the *Planning Act*, this decision may be appealed to the Island Regulatory & Appeals Commission ("IRAC") (PO Box 577, Charlottetown, PE, C1A 7L1: <http://www.irac.pe.ca>). An appeal must be filed within 21 days after the date of this letter or the Commission is under no obligation to hear the appeal. For more information about appeals, please contact IRAC.

If you have any questions in regards to this decision, contact me at (902) 569-0573 or smacvarish@gov.pe.ca.

Sincerely,



Sarah MacVarish
Property Development Officer