

November 27, 2024  
Calgary, AB,

Via EMAIL FROM: frezell@yahoo.ca

Mark Frezell

Re: Appeal Docket #LA24017

Mark Frezell v. Minister of Housing, Land and Communities

Our File: LS 26935

VIA EMAIL TO: [mwalshdoucette@irac.pe.ca](mailto:mwalshdoucette@irac.pe.ca)

The following letter is in response to the Commission's request as per below:

The Commission requests that **the Appellant file written submissions in order to:**

- Respond to the Record;
- Reply to the Submission of the Minister of Housing, Land and Communities; and,
- Particularize and clarify the grounds of appeal set out in the Notice of Appeal.

We would ask that you please provide these by **November 27, 2024, at 4:00.**

The Appellant would like to put forward the following comments in relation to the documentation provided by the minister for consideration.

1. The buffer zone of the required 15m as indicated by the email dated September 18, 2024 from Dale Thompson to Sarah MacVarish, in my opinion, **does allow for sufficient development space if the buffer zone is measured from the top of the bank.** As noted in my original appeal, the GPS coordinates indicated on the appeal decision seem to be in the centre of the property and do not align with the watercourse. This contention was not cited, or dealt with in the appeal response documents.
  - a. I am requesting that a proper survey be completed to ensure the measurement of the 15m buffer zone is being assessed from the actual top of the bank, not from an aerial photograph.
2. Furthermore, the GPS coordinates indicated in the application decision are not specific enough (i.e., they do not contain enough decimal points) to allow them to

locate the top of the bank with the precision required to make a development permit decision in what will be a matter of feet or part meters.

- a. I am requesting that a survey be completed by an independent third party to verify the top of the bank rather to ensure impartiality.
3. The appeal reply by the minister verifies that the lot was created by the subdivision plan in 1970. Therefore, according to a layman's reading of the regulation, it falls into the "grandfather" clause of only requiring a 50 foot setback for the dwelling and the septic system. This was addressed in the original development permit application and in the subsequent appeal documentation by the appellant. However it has not been addressed in the appeal reply by the Minister.
  - a. I am requesting that this be acknowledged and considered in the measurement of the dwelling setback. If this is done, even using the aerial photograph measurement, there is sufficient space for the development of a small building, while allowing the required 17 feet (50 feet from the centre line) from the edge of the road.  $84.5 - 50 - 17 = 17.5$  feet available for development.
4. It should also be noted that there is a precedent of other cottages in the area, along the same road (Garden Lane) that have setbacks of **less than 75 feet from the bank**. These are indicated in the attached aerial photographs with measurements attached to this response. As a former owner of the cottage at 96 Garden Lane, I know my cottage was much closer than 75 feet or even 50 feet from the top of the bank. Given that the shoreline of the property in question has a concrete reinforced bank, there is minimal risk to erosion or damage to the cottage from normal erosion activity.
  - a. Please review the attached photographs of surrounding cottages to indicate a precedent. Not allowing one cottage to be built and allowing others to stand to be built would be punitive.
  - b. Please note that in at least two of the attached photos that the measurements of the lot are exactly the same depth of my lot as indicated in the aerial photographs. One of these cottages recently was burned down by an arsonist, however, the development permit was issued within the last decade.

5. The appeal response by the Minister indicates that there is not sufficient room for a septic system that would include a weeping bed, particularly due to the soil condition. However, the document does acknowledge that the soil has a valid Category 1 rating. The documentation also validates that the appellant requests a holding tank as the septic system of choice as indicated on the development application. The document goes on to say that the appellant should be cautioned as to the expense of using a holding tank as a septic system.
  - a. The cost of operating the requested holding tank for the land owner is not the concern of the Minister, although the concern is appreciated.
  - b. The setback requirement from the top of the bank is only 50 meters due to the allowance (“grandfather clause”) for the lot being created before 1993 (1970 in this case). Therefore there is no grounds to use this fact as a denial for the application permit.

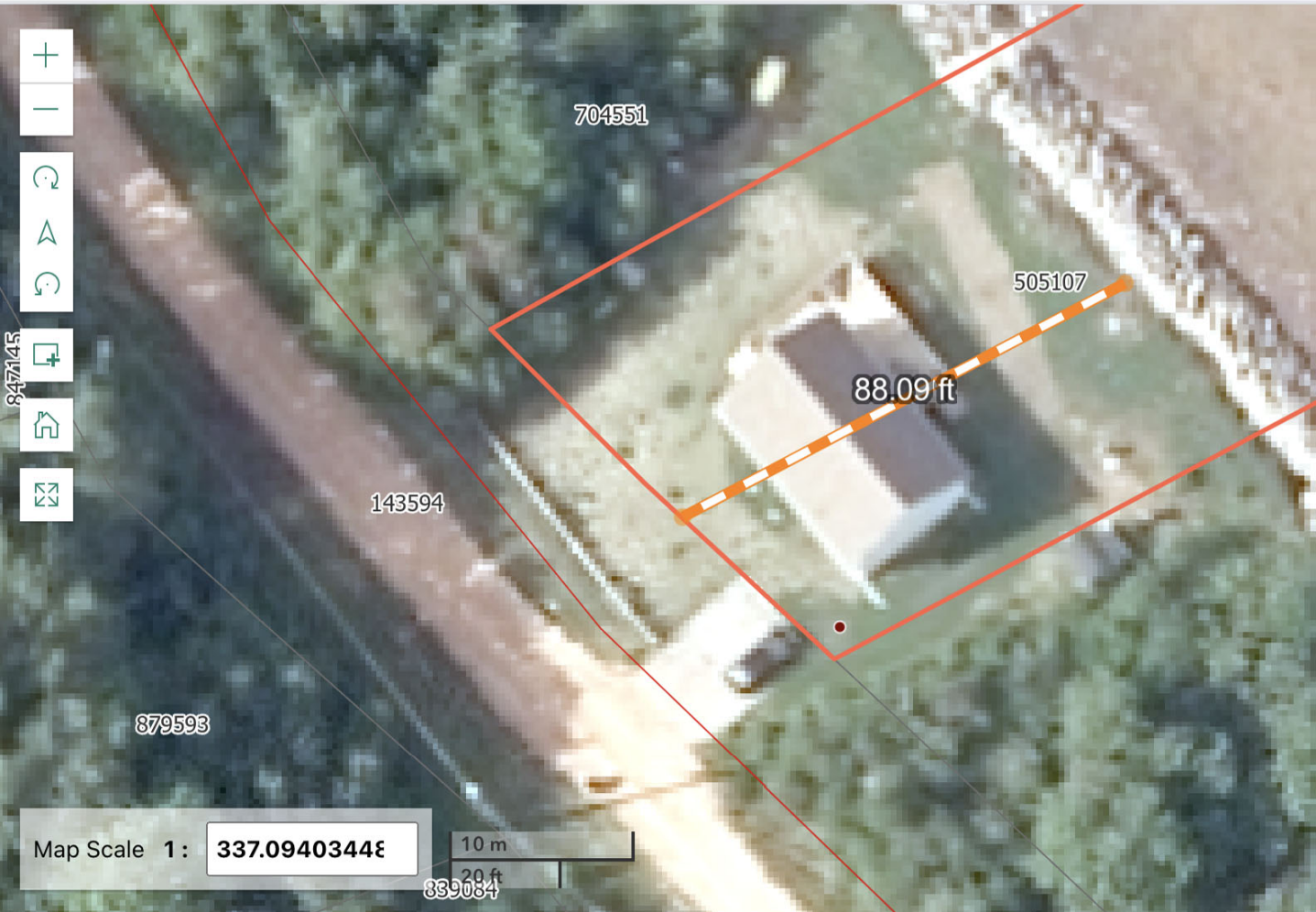
In summary, the key issues of contention is the measurement of the lot from the top of the bank, the reduced setback requirements of only 50 feet for lots created before 1993 and the precedent of many other cottages on the same road having a reduced setback equal to or less than the 15m setback to respect the buffer zone.

It is my request for the Minister to consider the above points, provide an accurate survey as the measurements provided are in question and consider a fair and equitable approach to development in the subdivision as many if not all cottages along the shorefront of the McIntyre Shores subdivision are equal to or less than 15m from the waters’ edge.



Respectfully Submitted,  
Mark Frezell

Attached:


- Various (6) aerial photos of McIntyre Shore waterfront cottages with indicated setbacks.



### Measurement Tools ✕

**Unit**

Feet 

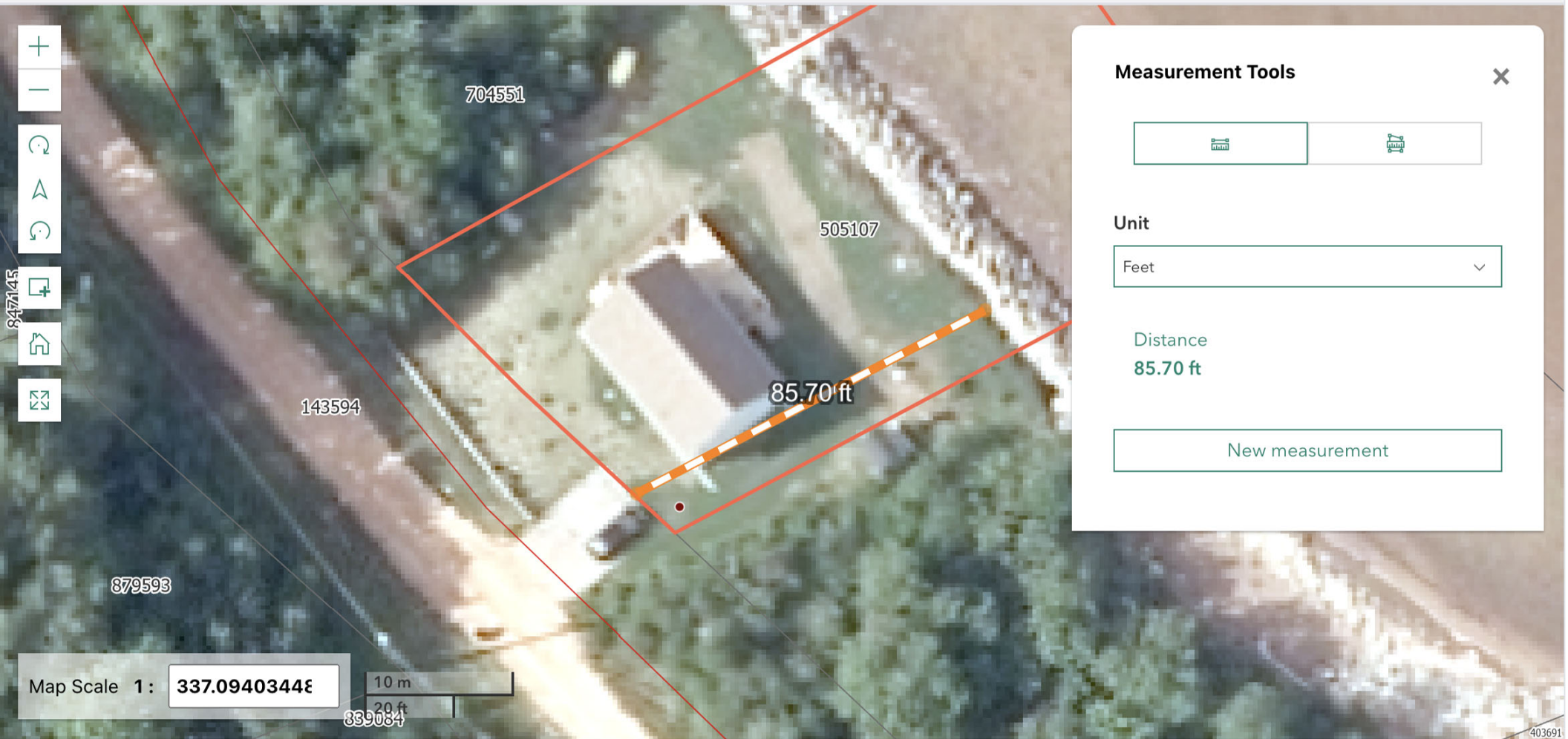
Distance  
**88.09 ft**

[New measurement](#)

Map Scale 1 : **337.0940344E**

10 m

20 ft



**Measurement Tools** ✕

**Unit**

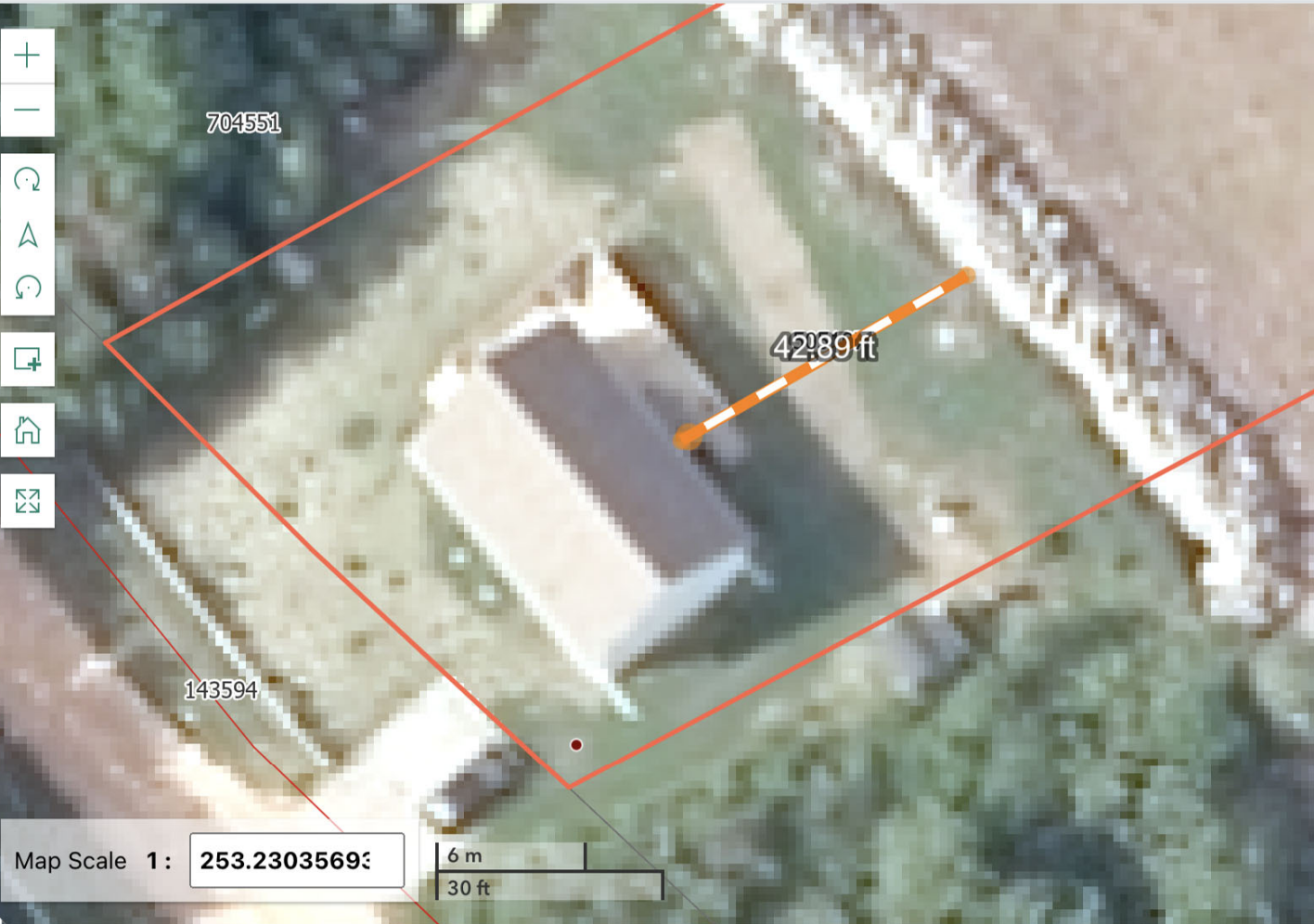
Feet ▾

Distance  
**85.70 ft**

[New measurement](#)

Map Scale 1 : **337.0940344€**

10 m  
20 ft



**Measurement Tools** ✕

**Unit**

Feet ▾

Distance  
**42.89 ft**

[New measurement](#)

Map Scale 1: **253.2303569**

|       |
|-------|
| 6 m   |
| 30 ft |



Map Scale 1: **253.23035693**



**Measurement Tools** ✕

**Unit**  
Feet ▼

Distance  
**45.70 ft**

[New measurement](#)

506899



704551

505107

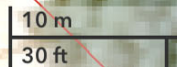
0.16 acre

143594

430546

403691

879593  
Map Scale 1: 390.91938270



### Measurement Tools



#### Unit

Acres

Area

**0.16 acre**

Perimeter

**344.75 ft**

New measurement





- 
- 
- 
- 
- 

**Measurement Tools** ✕

**Unit**

Feet ▾

Distance  
**30.35 ft**

[New measurement](#)

Map Scale 1: **390.91938270**

10 m  
30 ft