



REPORT NUMBER: 2026-026

REPORT TITLE: PID 30359533, MCKAY LANE, KINGSTON, FUNDY RURAL DISTRICT

DATE: 2026-04-15

1. Property Information	
Applicant	Lynn McKay
Landowner	Lynn McKay
Location	McKay Lane, Kingston
Parent PID	30359533
Local Government	Fundy Rural District
Rural Plan Bylaw	NA
Zone	NA
Application Type	Subdivision on Private Access (Type 2); Variance from the Provincial Subdivision Regulation
Number of Proposed Lots	2

2. Application Proposal
<p>Lynn McKay has applied to subdivide PID 30359533 at McKay Lane, Kingston, Fundy Rural District. The proposal is to create 2 residential lots (Lot 26-1 and Lot 26-2) which would be accessed by McKay Lane (Private Access). The proposal also seeks a variance for both Lot 26-1, as its frontage measures approximately 41 m, and for Lot 26-2 as its frontage measures approximately 26.5 m, which is not compliant with the Provincial Subdivision Regulation.</p> <p>A tentative subdivision plan is attached in Appendix A: Tentative Subdivision Plan.</p> <p>Therefore, the Planning Review and Adjustment Committee (PRAC) must consider:</p> <ul style="list-style-type: none"> • Whether private access is advisable for the development of the land. • Whether the proposed variance(s) would be considered reasonable from the requirements of the Provincial Subdivision Regulation and is desirable for the development of land.



3. PRAC Function & Legal Authority

New Brunswick Subdivision Regulation 80-159:

6(1) Every lot, block and other parcel of land in a proposed subdivision shall abut

- a. Street owned by the Crown, or
- b. Such other access may be approved by the regional service commission as advisable for land development.

6(4) Where a proposed subdivision is not to be serviced by a sewer system for public use, every lot or other parcel of land therein shall have and contain

- a width of at least 54 meters,
- a depth of at least 38 meters,
- an area of at least 4,000 square meters.

The legislative authority to grant a variance from the Provincial Subdivision Regulation is found under Sections 78(1) and 125(11)(b) of the Community Planning Act:

78(1) An advisory committee or regional service commission may

(a) subject to the terms and conditions it considers fit, permit a reasonable variance from the requirements of a subdivision by-law, if it is of the opinion that the variance is desirable for the development of land and is in keeping with the general intent of the by-law and any plan or scheme under this Act affecting the land.

4. Site Description

Proposed Lots	<p>Lot 26-1</p> <ul style="list-style-type: none"> • Area: 2.36 ha • Width at Setback: 41 m • Depth: 190 m • Current use: Residential (existing dwelling) • Proposed use: Residential • Access: 24 m wide Private Access (McKay Lane) • Nearest Public Road: Approximately 290 meters from NB-845
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4. Site Description	
	<p>Lot 26-2 (Flag Lot)</p> <ul style="list-style-type: none"> • Area: 7684 m² • Width at Setback: 26.5 m • Buildable Area (excludes access strip of lot): 54 x 99.5 m (approx. 5,373 m²) • Current use: Vacant • Proposed use: Residential • Access: 24 m wide Private Access (McKay Lane) • Nearest Public Road: Approximately 290 m from NB-845 • Access Strip (Build area to Private Access): Approximately 137 m to McKay Lane, 24 m wide
Surrounding Land Use	<ul style="list-style-type: none"> • Residential / Vacant
Proposed Access	<ul style="list-style-type: none"> • McKay Lane, existing 24 m wide Private Access with turnaround • Approximately 290 m in length
Services	<ul style="list-style-type: none"> • No public water or public sewage services are available in the area

5. Consultation	
Notice to Neighboring Residents	<ul style="list-style-type: none"> • As per section 6.2 of the PRAC By-law and Operating Procedures, notices were sent to property owners within 100 m of the subject property on March 27, 2026. • The deadline for written submissions was April 13th, 2026. • In total, notices were sent to 9 property owners. • The FRSC did not receive any written responses. • A minor amendment was made to the Tentative Subdivision to provide an adequate setback from the existing structure to the



5. Consultation	
	proposed property line. The Tentative Subdivision Plan circulated includes the revised Plan.
Government Agency	<ul style="list-style-type: none"> • No consultation with Government Agencies required.

6. Overview & Evaluation
<p><u>Proposal</u></p> <p>A tentative subdivision plan was prepared by surveyor Don More Surveys & Engineering Ltd. for the property owner Lynn McKay. The tentative subdivision plan proposes subdividing PID 30359533 at McKay Lane, Kingston, Fundy Rural District. The proposal is to create 2 residential lots (Lot 26-1 and Lot 26-2) which would be accessed by an existing Private Access, McKay Lane. The proposal also seeks a variance for Lot 26-1, as its frontage measures 41 m and for Lot 26-5, as its frontage is 26.5 m. This contrasts with the Provincial Subdivision Regulation, which requires a minimum lot width of 54 meters.</p> <p>The Planning Review and Adjustment Committee (PRAC) must consider:</p> <ul style="list-style-type: none"> • Whether private access is advisable for the development of the land. • Whether the proposed variance(s) would be considered reasonable from the requirements of a subdivision by-law and is desirable for the development of land. <p><u>Regulations</u></p> <p>As per the New Brunswick Subdivision Regulation, to subdivide a property, all lots must abut a public street or “such other access as may be approved by the regional service commission as being advisable for the development of land.” To aid the evaluation of the proposal, this report uses the Fundy Regional Service Commission’s Guide to Lot Creation on an Access Other than a Public Street (‘FRSC Guidelines’). A site visit was conducted on March 20th, 2026. Site photos are attached in Appendix B: Site Photos.</p> <p>When evaluating whether a Private Access is advisable for the development of a proposed lot, FRSC guidelines recommend consideration of the topography, sensitive areas, safety, speed, sight</p>



visibility, width of the right-of-way, continuity of access and the development trends within a 500-meter radius. Developments located on private access do not receive public services such as school bussing, snow plowing, road maintenance. Garbage must be brought to the public road for pickup. It is the responsibility of the landowner to maintain private access. Neither Government, the FRSC nor PRAC are responsible for inspecting on-going conditions of private access.

Under the Provincial Subdivision Regulation, the width requirement for a lot which is not to be serviced by a public sewer system is found in Section 6(4):

6(4) Where a proposed subdivision is not to be serviced by a sewer system for public use, every lot or other parcel of land therein shall have and contain

- (a) a width of at least 54 meters,*
- (b) a depth of at least 38 meters,*
- (c) an area of at least 4,000 square meters.*

There may be unusual conditions of topography, size, shape and location that affect the development of parcel in the manner not envisioned in the regulations. In these circumstances, lot width requirements at the minimum line of setback may restrict the use of the subject property to a greater degree than it restricts other properties in the vicinity or district. To prevent situations of special hardships, planning legislation allows for variances in certain circumstances. The legislative authority to grant a variance is found under Sections 78(1) and 125(11)(b) of the Community Planning Act:

78(1) An advisory committee or regional service commission may

- (a) subject to the terms and conditions it considers fit, permit a reasonable variance from the requirements of a subdivision by-law, if it is of the opinion that the variance is desirable for the development of land and is in keeping with the general intent of the by-law and any plan or scheme under this Act affecting the land.*

125(11) If a subdivision regulation under this section is in effect

- (b) the powers mentioned in section 78 with respect to variance are vested in the regional service commission or development officer, as the case may be.*



Therefore, providing a lot has sufficient area to safely accommodate development and an associated on-site septic disposal system, a variance of width at the minimum setback would not undermine the intent of the Provincial Subdivision Regulation. However, it is also the responsibility of those granting a variance to determine that relaxing standards will not adversely affect surrounding properties and convey no special advantage for the applicant.

Background

PID 0097303 was subdivided in 2024 creating 1 new lot 24-1, now PID 30359533, and creating a private access, McKay Lane, as part of the remnant, see **Appendix C: Plan 45176915**. Lot 24-1 (PID 30359533) is proposed to be further subdivided into Lot 26-1 and Lot 26-2.

Access

The proposed lots are accessed via existing 24-meter-wide Private Access, McKay Lane, starting at NB-845. The total length of the Private Access is approximately 290 meters, and includes a 18 m radius turnaround. There are 8 additional lots that currently use McKay Lane for access, some are developed with residential use and some are vacant.

Purpose

The purpose of the Subdivision Plan is to subdivide PID 30359533 to create 2 lots (referred to as Lot 26-1 and 26-2). The proposed lots are intended for residential use.

Environmental Considerations

There are no mapped wetlands or watercourses on the parent PID.

7. Attachments

Appendix A: Tentative Subdivision Plan

Appendix B: Site Photos

Appendix C: Plan 45176915

8. Analysis and Recommendation

Analysis

Per FRSC Private Access Guidelines, private roads must have a minimum width of 20 m, which aligns with the DTI standards for public roads at the time the FRSC guidelines were established. Current DTI standards stipulate a minimum width of 24 meters. The existing Private Access has a width of 24 m, which meets current DTI standards. The length of the Private Access is approximately 290 m and serves as access to 9 existing lots on the Lane. As such, the Private Access generally meets the width requirements set out in FRSC Private Access guidelines.

Furthermore, the FRSC Guidelines note National Building Code (NBC) requirements for access by emergency vehicles. Amongst several requirements, the provision of turn-around facilities for any dead-end private access road longer than 90 meters is recommended. The current Private Access is approximately 290 m long and includes an 18m radius turn-around.

A site visit conducted on March 20th, 2026, was used to evaluate the condition of the existing private access intended to be used for the proposed lots. The lane is not paved and has areas of washout which are in need of repair. The lane exhibits an upward slope from NB-845 toward the turn-around and proposed Lots 26-1 and 26-2. It is the opinion of planning staff that the proposed lots would be appropriately served by the existing Private Access, McKay Lane, pending the Lane is repaired and drainage issues addressed to avoid future washout scenarios.

Proposed Lot 26-2 is considered to be a Flag Lot. According to section 46 of the Community Planning Act:

46 (1) Flag lots require a variance as they do not meet the minimum lot width requirements at the street line.

The Provincial Subdivision Regulation section 6(4) outlines minimum requirements for lots not serviced by a public sewer system. Specifically, a lot must have a width of at least 54 meters, a depth of 38 meters, and an area of 4,000 square meters.

However, regulations acknowledge that unique topographical, size, or shape conditions could create hardship for certain properties. In such cases, variances to the width requirement may be granted, as long as the lot has sufficient area for safe development and septic system installation, and the



variance does not negatively impact surrounding properties or provide an unfair advantage to the applicant.

To analyze the granting of a variance, reference is taken from the Fundy Regional Service Commission (FRSC) guidelines for flag lots ('FRSC flag lot guidelines') which provides guidance for the creation of flag lots to manage challenging topography, optimize land use, and reduce infrastructure costs. Flag lots, which have a narrow access strip connecting the main lot to the street, should generally comply with specific standards:

7(2) The "building area" portion of a flag lot should be at least equal in size to the required lot area and should have a lot width of at least 54 meters and a lot depth of at least 38 meters.

7(3) The maximum length of the access strip should be 100 meters.

While the building area does comply with the FRSC flag lot guidelines; the length of the access strip does exceed its length recommendation (137 m). The slope for the access strip is approximately 8%.

Recommendation

WHEREAS the dimensions of the proposed lots meet or exceed the minimum dimensions of the *Provincial Subdivision Regulation*, except for its width requirement.

WHEREAS the proposed building lots would be accessed by the existing Private Access appropriate for the intended use.

And WHEREAS the variance for a reduced width of Lot 26-1 and 26-2 is advisable for the development of the land and is in keeping with the general intent of the *Provincial Subdivision Regulation*.

Therefore, it is recommended that the Planning Review and Adjustment Committee approve a variance for reduced width for both Lot 26-1 and 26-2 and approve the proposed Private Access as suitable for Proposed Lots 26-1 and Lot 26-2, as detailed in the tentative subdivision plan of PID



30359533 (prepared by Don More Surveys & Engineering Ltd.) and submitted on March 10, 2026 with the following conditions:

1. *Legal right of access, whether by deeded right-of-way, conveyance of right of way or other means, shall be assured to subsequent owners, assigns, heirs and successors.*
2. *Both the legal right of access and subdivision approval shall include provisions advising that:*
 - a. *Development along the private access shall not receive public services unless upgraded to Department of Transportation and Infrastructure standards; and*
 - b. *Owners, assigns, heirs and successors shall assume joint ownership and responsibility for private access construction and maintenance.*
3. *The Final Plan of Subdivision shall note the following:*
 - a. *The private access shown on this plan is not suitable for a public street. All maintenance and improvements to the private access are the responsibility of the property owner(s). Public services such as school busing garbage pickup or snow plowing may not be provided within a private access.*
 - b. *No building or structure, with the exception of fence, shall be constructed within the access strip of Lot 26-2.*
 - a. *The access strip and building area of Lot 26-2 shall have adequate drainage to prevent damage or hazard to abutting properties.*
 - b. *A turning area shall be constructed Lot 26-2 at the end of the access strip to allow for emergency vehicle turning.*
4. *The formation of a legal association for the maintenance of the road must be confirmed prior to final approval by the development officer to ensure the long-term maintenance of the private access.*



PLANNING REVIEW ADJUSTMENT COMMITTEE

Prepared by:

Amanda McKenna
Development Officer

Approved by:

Scott Borden, RPP, MCIP
Senior Director of Community Planning and Transportation

Date: April 15, 2026