

**ROCKY VIEW COUNTY  
SUBDIVISION AND DEVELOPMENT APPEAL BOARD**

Board Order No.: 2019-SDAB-060

File No.: 03223449; PRDP20193859

Appeal by: Jo-Ann Riddell

Appeal Against: Development Authority of Rocky View County

Hearing Date: 2019 December 11

Decision Date: 2019 December 20

Board Members: D. Henn, Chair  
T. Fehr  
H. George  
M. Goetjen  
W. Metzger

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**DEVELOPMENT APPEAL DECISION**

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**INTRODUCTION**

[1] This is an appeal to the Rocky View County Subdivision and Development Appeal Board (the Board) from a decision of the Rocky View County Development Authority issued November 28, 2019. In this decision, the Development Authority refused a development permit for an existing accessory building (detached garage) addition (wood shed), constructed without permits; relaxation of the total building area; relaxation of the minimum rear yard setback requirement at 44 Wenstrom Crescent (the Lands).

[2] Upon notice being given, this appeal was heard on December 11, 2019 in Council Chambers of Rocky View County's County Hall, located at 262075 Rocky View Point, Rocky View County, Alberta.

## DECISION

[3] The appeal is allowed and the decision of the Development Authority is overturned. A development permit shall be issued subject to the following conditions:

### Description:

- 1) That the existing accessory building (detached garage), may remain on the Lands, in general accordance with the submitted site plan and application.
  - a. That the maximum building area of the accessory building is relaxed from **65.00 sq. m. (699.65 sq. ft.)** to **67.81 sq. m. (729.90 sq. ft.)**
  - b. That the rear yard setback requirement for an accessory building (detached garage) is relaxed from **1.00 m (3.28 ft.)** to **0.89 m (2.92 ft.)**.

### Permanent:

- 2) That the accessory building shall not be used for commercial purposes at any time, except for a home-based business, type I.
- 3) That the accessory building shall not be used for residential occupancy purposes at any time.

### Advisory:

- 4) That any other government permits, approvals, or compliances are the sole responsibility of the Applicant.

## BACKGROUND

[4] On October 23, 2019, Jo-Ann Riddell submitted a development permit application on behalf of the owners of the Lands, Darren and Lisa Paynter, for an existing accessory building (detached garage) addition (wood shed), constructed without permits; relaxation of the total building area; relaxation of the minimum rear yard setback requirement.

[5] The Lands are located at 44 Wenstrom Crescent (Lot 57 Block 9 Plan 9712265; NW-23-23-27-W4M) and located in the hamlet of Langdon. The Lands are 0.26 hectares (0.64 acres) in area.

[6] The Lands' land use designation is Hamlet Residential Single Family District and is regulated in section 59 of the Rocky View County *Land Use Bylaw C-4841-97* (the *Land Use Bylaw*).

[7] On November 28, 2019, the Development Authority refused to grant a development permit for an existing accessory building (detached garage) addition (wood shed), constructed without permits; relaxation of the total building area; relaxation of the minimum rear yard setback requirement for the following reasons:

- 1) The total building area of the existing accessory building addition (wood shed) does not meet the maximum requirement as per section 59.2 of the *Land Use Bylaw*.

**Required: 65.00 sq. m (699.65 sq. ft.); Proposed: 67.81 sq. m (729.90 sq. ft.)**

- 2) The rear yard setback of the existing accessory building addition (wood shed) does not meet the minimum requirement as per section 59.5 of the *Land Use Bylaw*.

**Required: 1.00 m (3.28 ft.); Proposed: 0.89 m (2.92 ft.)**

- 3) The existing accessory building addition (wood shed) encroaches into the overland drainage right of way.

[8] On November 29, 2019, the Appellant appealed the Development Authority's decision. The Notice of Hearing was circulated to 22 adjacent landowners in accordance with the *Municipal Government Act*, RSA 2000, c M-26 and Rocky View County Council Policy C-327, *Circulation and Notification Standards*.

## **SUMMARY OF EVIDENCE**

[9] The Board heard verbal submissions from:

- (1) Andrea Bryden, Planner, for the Development Authority;
- (2) Sean MacLean, Supervisor Planning and Development, for the Development Authority;
- (3) Noor Mirza, Municipal Engineer, for the Development Authority; and
- (4) Jo-Ann Riddell, the Appellant and representative of the owners.

[10] The Board received two letters in support of the appeal from:

- (1) Edward and Judith Winters; and
- (2) Jack Laycraft.

[11] The Board received no letters in opposition to the appeal.

### *Development Authority's Submissions*

[12] The proposal requires a 4% relaxation of the maximum building area and an 11% relaxation of the rear yard setback.

[13] Though the relaxation requests are within the Development Authority's variance allowance as per section 12.2 of the *Land Use Bylaw*, they chose not grant the relaxations due to concerns that the building addition (wood shed) could impede overland drainage, causing flooding on the Lands or other parcels in the area.

[14] The overland drainage right of way flows into the municipal ditch system.

[15] They are not aware of any overland drainage issues on the Lands.

[16] There is a utility right of way to the north of the Lands but the building addition (wood shed) only encroaches on the overland drainage right of way.

*Appellant's Submissions*

[17] She represents both the buyers and sellers of the Lands.

[18] A Real Property Report on the Lands was deemed non-compliant days before the close of sale in June 2019.

[19] The buyers would like to keep the wooden shed to keep their property secure and would like to get the property they thought they purchased in June 2019.

[20] The garage was built by the original owner in 2009 and the wood shed was attached a year or two later. They got a building permit for the garage but were not aware they needed a development permit.

[21] The relaxation request for total building area is small at 4.55% and is within the Development Authority's allowance. The wood shed is too close to the rear yard setback by only 11 cm and will not have an impact on the overland drainage.

[22] The wood shed is attached to the garage and would be difficult to remove.

[23] There are many similar buildings in the neighbourhood and the wood shed has been in place for nine years with no problems or complaints.

[24] They would like to bring the Lands into compliance.

*Development Authority's Closing Comments*

[25] They have no records of overland drainage complaints on the Lands.

*Appellant's Closing Comments*

[26] None.

**FINDINGS & REASONS FOR DECISION**

[27] The existing accessory building (detached garage) addition (wood shed) is bigger than 65.00 sq. m (699.65 sq. ft.) in building area and requires a rear yard setback relaxation and is therefore a discretionary use in a Hamlet Residential Single Family District in accordance with section 59 of the *Land Use Bylaw*.

[28] The Board finds it has the authority to make a decision on this matter pursuant to section 687(3)(d) of the *Municipal Government Act*.

[29] The Board finds that the accessory building (detached garage) addition (wood shed) meets all other accessory building regulations and fits the purpose and intent of a Hamlet Residential Single Family District, as outlined in section 59 of the *Land Use Bylaw*.

[30] The Board is satisfied that the accessory building (detached garage) addition (wood shed) has minimal impact on the area as the immediate neighbours support the appeal, the encroachment on the overland drainage right of way is very small, and the wood shed has existed on the Lands for nearly ten years without problems or complaints.

[31] The Board reviewed all evidence and arguments, written and oral, submitted by the parties and focused on the most relevant evidence and arguments in outlining its reasons. The Board also considered the context of the proposed development, sound-planning considerations, the merits of the application, and all applicable legislation, plans, and policies.

[32] Given the above findings and pursuant to section 687 of the *Municipal Government Act*, the Board finds that the proposed development would not unduly interfere with the amenities of the neighbourhood, or materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land. The Board also finds the proposed development conforms to the use prescribed for the Lands in the *Land Use Bylaw*.

## CONCLUSION

[33] For the reasons set out above, the appeal is allowed and the decision of the Development Authority is revoked. A development permit shall be issued subject to the above-noted conditions.

Dated at Rocky View County, in the Province of Alberta on December 20, 2019.



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Daniel Henn, Chair  
Subdivision and Development Appeal Board

## EXHIBIT LIST

### DOCUMENTS PRESENTED AT THE HEARING AND CONSIDERED BY THE BOARD

NO.	ITEM
1.	Development Authority's Report to the Board (20 pages)
2.	PowerPoint presentation submitted by Development Authority (8 pages)
3.	Jack Laycraft letter in support and pictures submitted by Appellant (6 pages)
4.	Letter in support from Edward and Judith Winters (1 page)