

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

Board Order No.: 2019-SDAB-004

File No.: 07802002; PRDP20184108

Appeal by: William McArthur

Appeal Against: Development Authority of Rocky View County

Hearing Date: 2019 January 30

Decision Date: 2019 February 12

Board Members: D. Kochan, Chair
D. Henn, Vice-Chair
I. Galbraith
H. George
W. Metzger

DEVELOPMENT APPEAL DECISION

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 December 31, 2018. In this decision the Development Authority refused a development permit for the construction of an accessory building (oversize pole structure) and the relaxation of the maximum height requirement at 270172 Range Road 42 (the Lands).

[2] Upon notice being given, this appeal was heard on January 30, 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 with the following conditions:

Description:

1. That the construction of an accessory building (oversize pole structure) may take place on the subject lands in accordance with the site plan (as amended as to orientation from north/south to east/west), drawings submitted with the

application (Integrity Built, Drawing No. MDD-IPS-18-346) and conditions of this permit.

2. That the maximum height for the accessory building (oversize pole structure) is relaxed from 5.50 m (18.04 ft.) to 7.75 m (25.42 ft.).

Permanent:

3. That the accessory building shall not be used for commercial purposes at any time, except for the Home-Based Business, Type I, or an approved Home-Based Business, Type II.
4. That the accessory building shall not be used for residential occupancy at any time.

Advisory:

5. That any required building permits and/or sub-trade permits for the proposed accessory building shall be obtained through Building Services.
6. That any other federal, provincial or County permits, approvals, and/or compliances, are the sole responsibility of the Applicants/Owners.

BACKGROUND

[4] On October 4, 2018, William McArthur (the Appellant) submitted a development permit application for the construction of an accessory building.

[5] The Lands are located at NW-02-27-04-W5M, approximately 0.81 kilometres north of Highway 567 and on the east side of Highway 22. The Lands are approximately 7.37 hectares (18.21 acres) in area and are owned by William McArthur and Lauren McArthur.

[6] The Lands' land use designation is Farmstead District, which is regulated in section 47 of the Rocky View County, *Land Use Bylaw C-4841-97* [the *Land Use Bylaw*].

[7] On December 31, 2018, the Development Authority refused to grant a development permit on the following grounds:

- (1) The height of the proposed accessory building (oversized pole structure) does not meet the maximum height requirement as defined in section 47.7 of the *Land Use Bylaw*. The maximum height requirement is 5.50 metres and the proposed height is 7.75 meters.

[8] On January 3, 2019, the Appellant appealed the Development Authority's decision. The Notice of Hearing was circulated to 8 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) Paul Simon, Planner, for the Development Authority;
- (2) Sean MacLean, Supervisor Planning and Development, for the Development Authority
- (3) William McArthur, the Appellants;

[10] The Board received no letters in support of or opposition to the appeal.

Development Authority's Submissions

[11] The area surrounding the Lands are mostly agricultural in character. There is a nearby Direct Control district that is a campground. The Lands are developed with one dwelling and two existing accessory buildings. The Lands are relatively flat and the proposed development would not interfere with future agricultural development.

[12] The existing accessory buildings are legal, non-conforming buildings, as exhibited in a 1993 Real Property Report of the Lands. They were built many years ago and were regulated under the 1984 version of the *Land Use Bylaw*. There have since been changes to the *Land Use Bylaw* but these accessory buildings do not require a permit unless they are modified in a substantial way.

[13] The height of the proposed accessory building is 7.75 metres and requires a relaxation of the maximum height allowed in the *Land Use Bylaw* by 41%. The Development Authority may grant up to 25% relaxation. The height of the proposed development therefore exceeds variance discretion of the Development Authority.

[14] Based on a site inspection by Paul Simon, the height of the proposed accessory building seems comparable to other buildings on the Lands and in the area.

[15] Whether the length of the proposed accessory building runs east to west, or north to south, there are no setback issues.

Appellants' Submissions

[16] The Appellant is requesting a development permit for an accessory building to replace a Quonset that recently burned down. The Quonset was used as a machine shop and storage area for vehicles, equipment, and tools. The proposed building is tin clad and insulated.

[17] The proposed accessory building includes a 16 foot high door. This height is necessary to accommodate various types of vehicles, including cattle liners and tractors with grapple hooks for hay. The Quonset that burnt down had a shorter door and it was difficult to get some vehicles inside. The design of the proposed accessory building has a lowered pitch to reduce the height as much as possible to accommodate the door size.

[18] Integrity Buildings was contracted by the Appellant to draw up the plans and complete the permit application with Rocky View County.

[19] The orientation of the proposed accessory building on the site plan in the Development Authority's report is incorrect. The site plan shows the length of the proposed accessory building running north to south and it should be east to west.

[20] The height of the barn on the Lands is 23 feet and 9 inches.

[21] The Lands are surrounded by other buildings that are as high, or higher, than the proposed accessory building. This includes commercial buildings, farm buildings and riding arenas.

[22] The proposed accessory building is needed to store vehicles and other personal property. It is not possible to always know who is coming and going onto the Lands so everything needs to be locked up.

FINDINGS & REASONS FOR DECISION

[23] An accessory building is a discretionary use in the Farmstead District, in accordance with section 47 of the *Land Use Bylaw*. 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*.

[24] The Board finds that the height of the proposed accessory building is in keeping with the character of the Lands and area. The Lands are large and can accommodate the proposed accessory building's size. Besides the height, all other requirements for a development permit are met. The proposed building was designed to minimize the height of the roof. This design lowers the visual impact of the building while meeting functionality and safety requirements.

[25] The proposed accessory building is needed to store and secure the Appellant's personal property, including vehicles, equipment and tools.

[26] Given the above findings and pursuant to section 687(3)(d) 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*.

[27] Additionally, the Board finds that the existing accessory buildings are in compliance with the *Land Use Bylaw*.

CONCLUSION

[28] 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 February 12, 2019.



Don Kochan, 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 (28 pages)
2.	Alberta Land Surveyor's Real Property Report with a compliance stamp, dated 1993 January 28

