

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

Board Order No.: 2019-SDAB-007

File No.: 06217001; PRDP20184716

Appeal by: Darryl Kneesch

Appeal Against: Development Authority of Rocky View County

Hearing Date: 2019 February 20

Decision Date: 2019 March 07

Board Members: D. Kochan, Chair
D. Henn, Vice-Chair
I. Galbraith
H. George
S. Hartley

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 January 17, 2019. In this decision the Development Authority refused a development permit for the construction of an accessory building and the relaxations of maximum height and the maximum building area requirements at 274006 Township Road 262 (the Lands).

[2] Upon notice being given, this appeal was heard on February 20, 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 an accessory building (oversized and over-height workshop) may be constructed on the subject land in general accordance with the site plan and drawings submitted with the application.

- 2) That the maximum building size of the proposed accessory building (oversized and over-height workshop) is relaxed from 223.0 sq. m (2,400.35 sq. ft.) to \pm 325.16 sq. m (\pm 3,500 sq. ft.).
- 3) That the maximum building height of the proposed accessory building (oversized and over-height workshop) is relaxed from 5.50 m (18.04 ft.) to 7.92 m (26 ft.).
- 4) That the rear yard setback for the proposed accessory building (oversized and over-height workshop) is relaxed from 15.00 m. (49.20 ft.) to 12.19 m. (40 ft.).

Permanent:

- 5) That the accessory buildings shall not be used for commercial purposes at any time, except for the Home-Based Business, Type I.
- 6) That the accessory buildings shall not be used for residential occupancy at any time.
- 7) That the exterior siding and roofing materials of the proposed accessory building (oversized workshop) shall be similar in character to the existing dwelling, single-detached and accessory buildings.

Advisory:

- 8) That during construction, the County's Noise Control Bylaw C-5772-2003 shall be adhered to at all times.
- 9) That during construction, all construction and building materials shall be maintained onsite in a neat and orderly manner. Any debris or garbage shall be stored/placed in garbage bins and disposed of at an approved disposal facility.
- 10) That a Building Permit for the proposed accessory building (oversized and over-height workshop) shall be obtained prior to any construction taking place.
- 11) That any other government permits, approvals, or compliances are the sole responsibility of the Applicant.
- 12) That if the development authorized by this Development Permit is not commenced with reasonable diligence within 12 months from the date of issue, and completed within 24 months of the issue, the permit is deemed to be null and void, unless an extension to this permit shall first have been granted by the Development Officer.

BACKGROUND

[4] On November 21, 2018, Darryl Kneesch (the Applicant) submitted a development permit application for the construction of an accessory building (oversized and over height workshop), and relaxation of maximum height and the maximum building area requirements.

[5] The Lands are located at SE-17-26-27-W4M, located approximately 1.6 kilometres west of the hamlet of Kathyrn, at the northwest intersection of Highway 566 and Range Road 274. The Lands are approximately 6.2 hectares (15.32 acres) in area and are owned by Murray Allan Schwengler.

[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 January 17, 2018, the Development Authority refused to grant a development permit on the following grounds:

- (1) The size of accessory building exceeds the maximum permitted as defined in section 47.3 of the *Land Use Bylaw*.
- (2) The height of the proposed accessory building exceeds the maximum permitted as defined in section 47.7 of the *Land Use Bylaw*.

[8] On February 5, 2019, the Appellant appealed the Development Authority's decision. The Notice of Hearing was circulated to 10 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) Johnson Kwan Municipal Planner, for the Development Authority;
- (2) Darryl Kneesch, the Appellant;

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

Development Authority's Submissions

[11] This application is for the construction of an accessory building, being an oversized and over-height workshop. The approval for this development permit requires a relaxation to the maximum height and maximum building area for an accessory building.

[12] Specifically, the size of accessory building exceeds the maximum permitted in the *Land Use Bylaw*. The permitted maximum building area is 223.0 square meters and the proposed building area is 325.16 square meters. The requested variance is 45.81% and this is beyond the Development Authority's variance power.

[13] The height of the proposed accessory building exceeds the maximum permitted in the *Land Use Bylaw*. The maximum accessory building height permitted is 5.50 meters and the proposed height is 7.92 meters. The requested variance is 44% and this is beyond the Development Authority's variance power.

[14] Additionally, the Applicant also requested a rear yard setback variance to the north. The permitted rear yard setback is 15.00 metres and the proposed rear yard setback is approximately 12.19 metres. The requested variance is 18.73% and this is within the Development Authority's variance power. The Lands are well buffered along the northern edge with mature landscaping.

[15] The architecture and style of the accessory building must be similar in nature to the dwelling on the Lands. The purpose of such a condition is to keep the residential look of the

area, opposed to an area of mixed development. There is no requirement that the dwelling and accessory building must match or look exactly the same.

Appellant's Submissions

[16] The proposed development is for one esthetically pleasing building that is large enough to house equipment and other personal property. The Appellant requires more storage on the Lands for farm equipment. The accessory building would, in fact, look nicer than the house on the Lands.

[17] The additional height of the proposed accessory building is to allow for 14-foot high garage doors and a storage mezzanine within the building. The building design includes an open lean-to, which is included with the square footage of the accessory building.

[18] The proposed location of the accessory building is between the driveway and the trees on the Lands. The Appellant wants to place the accessory building as close to the trees as possible. There is no plan to remove the trees.

[19] The Appellant did not consult his neighbours about the proposed development.

FINDINGS & REASONS FOR DECISION

[20] Accessory buildings greater than 80 square metres and less than 220 square metres in area are a discretionary use in the Farmstead District, in accordance with section 47 of the *Land Use Bylaw*.

[21] The proposed building size and design is in keeping with the rural character of the surrounding area. Also, the Lands are well screened from the north, west, and east.

[22] The Board received no opposition from neighbouring land owners.

[23] 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*.

CONCLUSION

[24] 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 March 7, 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 (23 pages)