

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

Board Order No.: 2019-SDAB-017

File No.: 07526006; PRDP20190408

Appeal by: Antoni Cote Caron

Appeal Against: Development Authority of Rocky View County

Hearing Date: 2019 April 03

Decision Date: 2019 April 18

Board Members: D. Kochan, Chair  
K. Hanson  
I. Galbraith  
H. George  
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 February 28, 2019. In this decision the Development Authority refused a development permit for an accessory building (an oversized shop), building height relaxation, and setback relaxations at 274242 Range Road 12 (the Lands).

[2] Upon notice being given, this appeal was heard on April 3, 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:

Prior to Issuance:

- 1) That the proposed new accessory building may take place on the subject land, in general accordance with the approved site plan and conditions of this permit.

- 2) That the maximum building area for the new accessory building (shop) is relaxed from 223.0 sq. m (2,400.35 sq. ft.) to 289.86 sq. m. (3120.00 sq. ft.).
- 3) That the minimum side yard setback for the new accessory building (shop) is relaxed from 45.00 m (147.64 ft.) to 30.00 m (98.43 ft.).
- 4) That the maximum building height for the new accessory building (shop) is relaxed from 5.50 m (18.04 ft.) to 7.92 m (26.00 ft.).
- 5) That the minimum side yard setback for the existing garage is relaxed from 45.00 m (147.64 ft.) to 35.05 m (114.99 ft.).
- 6) That the minimum side yard setback for the existing shed is relaxed from 45.00 m (147.64 ft.) to 34.09 m (111.84 ft.).

Prior to Issuance:

- 7) That prior to issuance of this permit, the Applicant/Owner shall provide updated drawings demonstrating the accurate building area of 289.86 sq. m. (3120.00 sq. ft.) and building height of 7.92 m (26.00 ft.) for the new accessory building (shop).

Permanent:

- 8) That the accessory building (oversized shop) shall not be used for commercial purpose at any time, except for a Home-Based Business Type I.
- 9) That the accessory buildings shall not be used for residential occupancy purpose at any time.
- 10) That any plan, technical submission, agreement, or other matter submitted and approved as part of the Development Permit application, or submitted in response to a Prior to Issuance or Occupancy condition, shall be implemented and adhered to in perpetuity.

Advisory:

- 11) That during construction, all construction and building materials shall be maintained on site 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.
- 12) That during construction, the County's Noise Bylaw C-5772-2003 shall be adhered to at all times.
- 13) That a Building Permit/Farm Building Location Permit shall be obtained through Building Services prior to any construction taking place.
- 14) That any other government permits, approvals, or compliances are the sole responsibility of the Applicant/Owner.

15) 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 Authority.

## **BACKGROUND**

[4] On February 6, 2019, Antoni Cote Caron (the Appellant) submitted a development permit application for an oversized shop on the Lands.

[5] The Lands are located at NW-26-27-01-W5M, a mile north of the City of Airdrie and at the southeast junction of Township Road 275 and Range Road 12. The Lands are approximately 0.81 hectares (2.0 acres) in area and are owned by the Appellant and Isabelle A. Martineau.

[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 February 28, 2019, the Development Authority refused to grant a development permit on the following grounds:

- (1) The proposed building area for the accessory building (new shop) exceeds the maximum requirement as defined in section 47.3 of *Land Use Bylaw*.
- (2) The proposed front yard setback for the accessory building (new shop) exceeds the minimum requirement as defined in section 47.5 of *Land Use Bylaw*.
- (3) The proposed side yard setback for the accessory building (new shop) exceeds the minimum requirement as defined in section 47.5 of *Land Use Bylaw*.
- (4) The proposed building height for the accessory building (new shop) exceeds the maximum requirement as defined in section 47.7 of *Land Use Bylaw*.

[8] On March 12, 2019, the Appellant appealed the Development Authority's decision. The Notice of Hearing was circulated to 13 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) Xin Deng, Municipal Planner, for the Development Authority;
- (2) Sean MacLean, Supervisor, Planning and Development, for the Development Authority;
- (3) Gurbir Nijjar, Municipal Engineer, for the Development Authority;
- (4) Antoni Caron, the Appellant; and

(5) Karsten Verbeurgt, of 274138 Range Road 12, in opposition to the appeal.

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

[11] The Board received one letter in opposition to the appeal from Kathleen Verbeurgt of 274138 Range Road 12.

*Development Authority's Submissions*

[12] The Appellant applied for the construction of a new accessory building, being an oversized shop. This application requires a relaxation to the building height, building area, front yard setback, and side yard setback requirements.

[13] The Lands are in Farmstead District. There is no limit to accessory buildings in this district. Applicant indicated that some of the sheds seen in the Development Authority's report are now gone and most of the remaining sheds will be removed off of the Lands once the oversized shop is built. There would then be three accessory buildings if the proposed shop is built: the new oversized shop, the current garage, and an existing shed as shown on the site map.

[14] The following errors were noted in the Development Authority's report to the Board:

- (1) Condition 6 of Option 1 should read as "existing garage", not "existing shed"; and
- (2) Condition 9 should read "oversized shop", not "barn".

[15] Updated drawings are needed because what was submitted for the application does not represent what was requested via the e-mail to the file manager. Should the new drawings require greater variances than what the Board may grant, then the Appellant would have to reapply. The Appellant would be bound by variances granted by the Board.

[16] Setbacks are based on the road it backs onto. In this case, these are county roads and the front yard and side yard set backs are both 45 metres. The front yard is the short edge and side yard is the long edge of a parcel.

[17] Both of the roads the Lands are beside are gravel, low volume arterial roads. There is no consideration by the County at this time for future roads or upgrading to the roads.

[18] Regarding the letter of opposition, historical preservation is done through the province. The Development Authority is not aware that the Lands or the house on it is protected. There is no historical protection policy for Rocky View County.

*Appellant's Submissions*

[19] The Appellant wants a shop for storage and auto repair. The shelter on the side of the proposed shop is for his RV. It is not enclosed on all sides and is like a carport. The main part of the shop is for mechanics and storage. Vehicle repair is a personal pastime. The Appellant has no intention of operating a small business on the Lands. He plans to only fix his personal items. The Appellant's business is in siding. This is done on construction sites and not on the Lands. He parks his work trailers and stores his ladders on a rack on the Lands when he is not working.

[20] Regarding the proposed location of the shop, there is a septic tank on the eastside of the Lands. The Appellant doesn't want to build too close to that. There are also strong winds from the west so an overhead door on the west side is impractical. The Appellant plans to construct a second approach on the Lands for his RV unit as the existing approach is not very wide.

[21] The Appellant is trying to make the Lands look nice. When he purchased the Lands, there was garbage everywhere. Since then, he has cleaned up the Lands and wants to get rid of the old accessory buildings. He also wants to move the ladder rack in doors as soon as possible. This requires more storage. He has also extensively renovated and updated the outside of the old house. The proposed shop will match the house in style, looks and exterior siding materials.

#### *Karsten Verbeurgt's Submissions*

[22] Karsten Verbeurgt spoke in opposition of the Appeal. Verbeurgt resides about a half-mile from the Lands. Years ago, the Lands were subdivided through squatter's rights and the remainder of the parcel is owned Verbeurgt. He would not be able to see the proposed development from his home but it would be visible from the road.

[23] The setbacks, design rules, and other constraints exist for a reason and help create a feeling for a neighbourhood. Owners in the area have invested in this look and feel of the neighbourhood. Unless there is a very good reason, no relaxations should be given.

[24] The proposed accessory building is a large building with overhead door access on the west and the north. The size is large enough for a 10-car garage. Why is 3,100 square feet necessary for a hobby?

[25] The concern is that the north part of the Lands are starting to look more like a commercial area for supporting a commercial business. Last summer, the graveled area in the centre of the Lands was constructed.

[26] No second entrance to the Lands should be granted except by Council.

#### *Development Authority's Rebuttal*

[27] This appeal is specific to an accessory building and not a second access. If the Appellant wants a second access, that is a separate application.

[28] In regards to running a business on the Lands, the Development Authority is not aware of a business operating and there is no current permit for this. If a business is being operated, that is a matter for Enforcement and not the Board. If the Appellant wanted to run a business, he could make such an application.

[29] If the Board grants the appeal, the Development Authority requests that the development permit includes a prior-to-issuance condition requiring the submission of an amended site and design plans to the satisfaction of the Development Authority.

*Appellant's Rebuttal*

[30] The Appellant spoke with the nearest neighbour and they said they are fine with the development.

[31] He has applied to the Rocky View County Roads department for second approach into the lands and the application was granted.

[32] The proposed shop would have 16-foot high walls so an engineer would need to make the plans and put the necessary architecture in it. The Appellant wants to install a lift for his off-road Jeep.

[33] The original development application was a building that measured 40 feet by 60 feet. This is most common shop size in the area. The covered area for the RV to park under measures 12 feet by 60 feet. This takes the shop's area from 2,400 square feet to 3,100 square feet.

[34] The proposed oversized shop is necessary to secure personal items and to keep the Lands tidy.

**FINDINGS & REASONS FOR DECISION**

[35] 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*.

[36] The Board reviewed all evidence and arguments, written and oral, submitted by the parties and will focus on the most relevant evidence and arguments in outlining its reasons. When making its decision, the Board considered the context of the proposed development, sound planning considerations, the merits of the application, and all applicable legislation, plans, and policies. The proposed second approach onto the Lands is not relevant to the Board's findings.

[37] The Land's front yard runs along Township Road 275 and its side yard runs along Range Road 12. The relaxation to the front yard setback is not granted because there is adequate room for the development within the setback requirement.

[38] The Lands are well screened with mature trees that will soften the appearance of the proposed shop. The proposed shop will help keep the Lands tidy and secure the Appellant's personal property.

[39] The addition of the carport put the proposed shop over the building area limits in the *Land Use Bylaw*. One large building is preferable over several smaller accessory buildings.

[40] 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**

[41] 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 April 18, 2019.

“ Don Kochan ”

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Don Kochan, Chair  
Subdivision and Development Appeal Board

**EXHIBIT LIST**

DOCUMENTS PRESENTED AT THE HEARING AND CONSIDERED BY THE BOARD

<b>NO.</b>	<b>ITEM</b>
1.	Development Authority's Report to the Board (24 pages)
2.	Drawing of proposed building submitted by the Appellant (1 page)
3.	Letter of Opposition from Kathleen Vergbeurgt (2 pages)