

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

Board Order No.: 2019-SDAB-019
File No.: 04722004; PRDP20190117

Appeal by: William Charles Young
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

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 February 28, 2019. In this decision the Development Authority refused a development permit for renewal of a Home-Based Business, Type II, for school bus operation and repair at 32023 Springbank Road (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:

Description:

- 1) That a Home-Based Business, Type II, for school bus operation and repair may continue to operate on the subject parcel in accordance with the approved Site Plan.

- 2) That the maximum number of business-related visits per day is relaxed from eight (8) to thirty-five (35).
- 3) That the maximum number of non-resident employees is relaxed from two (2) to twenty-eight (28).
- 4) That the maximum amount of outside storage is relaxed from 400.00 sq. m. (4,305.56 sq. ft.) to 5,759.99 sq. m (62,000.00 sq. ft.).

Permanent:

- 5) That the number of non-resident employees shall not exceed twenty-eight (28) at any time.
- 6) That an employee in this home-based business is a person who attends on the property more than once in a seven (7) day period for business purposes.
- 7) That the Home-Based Business shall not change the residential character and external appearance of the land and buildings.
- 8) That the operation of this Home-Based Business shall not generate excessive or unacceptable increases in traffic within the neighbourhood or immediate area.
- 9) That the Home-Based Business shall not generate noise, smoke, steam, odour, dust, fumes, exhaust, vibration, heat, glare, or refuse matter considered offensive or excessive by the Development Authority and at all times the privacy of the adjacent residential dwellings shall be preserved and the Home-Based Business use shall not, in the opinion of the Development Authority, unduly offend or otherwise interfere with neighbouring or adjacent residents.
- 10) That the Home-Based Business shall be limited to the accessory buildings and the outside storage area in accordance with the approved Site Plan.
- 11) That all outside storage that is a part of the Home-Based Business shall be completely screened from adjacent lands, shall meet the minimum setback requirements for buildings, and shall not exceed 62,000 sq. ft. (5,759.98 sq. m.) in accordance with the approved Site Plan.
- 12) That all vehicles, trailers, or equipment that are used in the Home-Based Business shall be kept within a building or the storage area in accordance with the approved Site Plan.
- 13) That there shall be no signage, exterior display or advertisement of goods or services discernible from the outside of the building.
- 14) That no off-site advertisement signage associated with the Home-Based Business shall be permitted.
- 15) That the operation of this Home-Based Business shall be secondary to the residential use of the subject parcel.

Advisory:

- 16) That any other Federal, Provincial, or County permits, approvals, and/or compliances, are the sole responsibility of the Applicant/Owner.
- 17) That this Development Permit shall be valid until MARCH 14, 2024.

BACKGROUND

[4] On January 11, 2019, William Charles Young (the Appellant) submitted a development permit application for an existing Home-based Business Type II, being a school bus operation and repair business.

[5] The Lands are located at NE-22-24-03-W5M, at the southwest junction of Springbank Road and Range Road 32. The Lands are approximately 4.57 hectares (11.30 acres) in area and are owned by Bradley W. Young and Rose Brower-Young (the Owners)

[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 number of business-related visits exceeds the maximum number permitted in section 21.3(b) of *Land Use Bylaw*. The permitted number of visits per day is 8 and the actual number of visits per day is 30;
- (2) The continued operation of the home-based business could generate excessive or unacceptable increases in traffic within the neighbourhood or immediate area, which is in contravention of section 21.1(d) of *Land Use Bylaw*;
- (3) The continued operation of the home-based business could generate noise, smoke, steam, odour, dust, fumes, exhaust, vibration, heat, glare or refuse matter considered offensive or excessive, which is in contravention of section 21.1(f) of *Land Use Bylaw*;
- (4) The business use does not appear to be secondary to the residential use of the parcel, which is in contravention of section 21.1(c) of *Land Use Bylaw*;
- (5) The business use has changed the residential character and external appearance of the land and buildings, which is in contravention of section 21.1(d) of *Land Use Bylaw*;
- (6) The number of non-resident employees exceeds the maximum number permitted in section 21.3(e) of *Land Use Bylaw*. The permitted maximum number of non-resident employees is two and the actual number is 28; and
- (7) The amount of outside storage exceeds the amount permitted in section 21.3(g) of *Land Use Bylaw*. The permitted amount of outside storage is 400 square metres and the proposed amount of outside storage is 5,759.99 square metres.

[8] On March 15, 2019 the Appellant appealed the Development Authority's decision. The Notice of Hearing was circulated to 81 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) Sandra Khouri, 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; and
- (4) William Charles Young, the Appellant.

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

- (1) Bob and Joan Harvey of 244098 Range Road 32;
- (2) Rhonda Stel and Rudy Stel of 244114 Range Road 32;
- (3) A. R. Hourd of 245160 Range Road 32;
- (4) Cynthia Rose of 27 Meadowlark Lane; and
- (5) Keegan Seward of 244034 Range Road 32.

[11] The Board received one letter in opposition to the appeal from an anonymous writer, "Concerned Springbank Family".

Development Authority's Submissions

[12] The Lands are located in the Springbank area. The property is developed with two dwellings and approximately eight accessory buildings, including a repair shop and office. Mature trees provide adequate screening along Range Road 32 and Springbank Road.

[13] The proposal is for the renewal of a Home-Based Business, Type II, for school bus operation and repair, relaxation to the number of business-related visits per day, relaxation to the number of non-resident employees, and relaxation of the maximum outside storage area.

[14] This business has a fleet of 60 buses that operate within Springbank and Calgary. The majority of the buses are parked at either the drivers' properties or at other locations along the bus routes. A maximum of 25 buses are parked on site at any time. The Lands are mainly used for repair and dispatching services

[15] The business has been operational since the 1980's. Rocky View County has no records of development permits on the Lands prior to a permit issued for the business in 1999. The previous approval was granted by the Board on March 27, 2014. There are no proposed changes to the development at this time.

[16] The relaxations required for the business cannot be approved by the Development Authority. All previous approvals have been granted by the Subdivision and Development

Appeal Board. As such, this application has been refused. These relaxations are necessary for the business to continue as is.

[17] An area structure plan for the area is being developed. No draft of this plan has been provided to Council as of yet. Decisions on development permit applications are made based on how the Lands are developed at the moment and the current applicable laws and bylaws. The area structure plan is not complete and therefore cannot be taken into account.

[18] The increased traffic in the area is due to new development and background growth. Further improvements to the intersection would be defined in the area structure plan. This development permit would not trigger any additional improvements to Springbank Road or Range Road 32.

Appellant's Submissions

[19] Willco Transportation Ltd. has been operating at this location since 1986. Prior to that, only a couple of buses were operated but no business permit was needed in the 1980's.

[20] The Appellants have a positive relationship with all the neighbours. They are unaware of any complaints. The business provides an essential service to the community. Customers include the Springbank Community High School, the Springbank Middle School, the Springbank Park, and churches in the community.

[21] Willco Transportation Ltd. has strived to work within all development permit restrictions and guidelines. The Appellants also maintain the property to keep it from looking unsightly. Some local hires have assisted in the business. Employees include mechanics, bus drivers, and administrative staff.

[22] It would be helpful to have business permit for longer than five years at a time.

[23] The only driveway the buses use is off of Range Road 32. Buses are departing and coming onto the Lands between 6:30 to 9:00 AM and 2:30 to 4:30 PM. They have not had an issue getting on and off the Lands because of traffic.

[24] Significant changes to the operations are not likely therefore it is not viable option to move to a commercial space. The quarter around the Lands was sold as part of settlement of Appellant's parent's estate. The new owners continued to farm the old farming area on the Lands. The Appellant believes the new owners plan to subdivide.

Development Authority's Rebuttal

[25] The Development Authority could not determine who the letter of opposition was from and therefore could not map it along with the letters of support.

[26] A different land use designation for the Lands is not in front of the Board at this time.

[27] Regarding the number of employees and trips per day, the Development Authority asks the Board to consider what is reasonable.

FINDINGS & REASONS FOR DECISION

[28] A Home-based Business, Type II, is a discretionary use in the Farmstead District, in accordance with sections 21 and 47 of the *Land Use Bylaw*.

[29] 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*.

[30] 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. 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.

[31] The business has been operating the last five years with no complaints. The Lands are tidy and well-maintained. The Lands are also well screened with mature trees.

[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 April 18, 2019.

“ Don Kochan ”

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 (33 pages)
2.	Appellant's written submissions (1 page)
3.	Letters of Support not included in the Development Authority's Report (2 pages)
4.	Letter of Opposition (1 page)