

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

Board Order No.: 2019-SDAB-030
File No.: 05308012; PRDP20191252

Appeal by: Zoulfikar Hammoud
Appeal Against: Development Authority of Rocky View County

Hearing Date: 2019 June 26
Decision Date: 2019 July 11

Board Members: D. Kochan, Chair
I. Galbraith
H. George
D. Henn
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 May 30, 2019. In this decision the Development Authority refused a development permit for the construction of an oversized garage (accessory building), the relaxation to the size and height of an accessory building, and relaxation of the total building area for all accessory buildings at 251203 Sunshine Road (the Lands).

[2] Upon notice being given, this appeal was heard on June 26, 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 construction of an accessory building (oversized garage) approximately 278.71 sq. m (3,000.00 sq. ft.) in size may proceed in accordance with the site plan submitted with the application and Conditions 2, 3, and 4.
2. That the maximum size of the accessory building is relaxed from **225.00 sq. m (2,421.88 sq. ft.) to 278.71 sq. m (3,000.00 sq. ft.)**.
3. That the maximum height of the accessory building is relaxed from **7.00 m (22.96 ft.) to 7.62 m (25.00 ft.)**.
4. That the total building area for the all accessory buildings is relaxed from **225.00 sq. m (2,421.88 sq. ft.) to 278.71 sq. m (3,000.00 sq. ft.)**.

Permanent:

5. That the accessory building (oversized garage) shall not be used for commercial purposes at any time, except for a Home-Based Business Type I.
6. That the accessory building (oversized garage) shall not be used for residential occupancy at any time.

Advisory:

7. That if required, a Building Permit for the proposed accessory building (oversized garage) shall be obtained.
8. 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.
9. That any other government permits, approvals, or compliances are the sole responsibility of the Applicant.

BACKGROUND

[4] On April 23, 2019, Zoulfikar & Kadsir Hammoud (the Appellant) submitted a development permit application for the construction of an accessory building.

[5] The Lands are located at NW-08-25-28-W4M, located 0.4 kilometres (1/4 mile) south of Township Road 252, and on the west side of Sunshine Road. The Lands are approximately 1.21 hectares (3.00 acres) in area and are owned by Zoulfikar & Kadsir Hammoud.

[6] The Lands' land use designation is Residential Two District, which is regulated in section 50 of the Rocky View County, *Land Use Bylaw C-4841-97* [the *Land Use Bylaw*].

[7] On May 30, 2019, the Development Authority refused to grant a development permit on the following grounds:

- (1) The size of the accessory building exceeds the requirement as defined in Section 50.3 of Land Use Bylaw C-4841-97. **Required – 225.00 square metres (2,421.88 square feet); Proposed – 278.71 square metres (3,000.00 square feet).**
- (2) The height of the accessory building exceeds the requirement as defined in Section 50.7 of Land Use Bylaw C-4841-97. **Required – 7.00 metres (22.96 feet); Proposed – 7.62 metres (25.00 feet).**
- (3) The total building area for the all accessory buildings exceeds the requirement as defined in Section 50.9 of Land Use Bylaw C-4841-97. **Required – 225.00 square metres (2,421.88 square feet); Proposed – 278.71 square metres (3,000.00 square feet).**

[8] On June 10, 2019, the Appellant appealed the Development Authority's decision. The Notice of Hearing was circulated to 37 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) Sean MacLean, Supervisor Planning and Development, for the Development Authority;
- (2) Zoulfikar Hammoud, the Appellant.

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

[11] The Board received one letter in opposition to the appeal from:

- (1) Salvin Handel

Development Authority's Submissions

[12] Development Authority has the jurisdiction to relax the height of the accessory building but not the total size.

[13] The numbers for the height of the building on page 4 of the report should be reversed, proposed height of the building is 7.62 metres and the requirement is 7.30 metres.

[14] The total building area size can be rounded up to 280 square metres to enable a cushion.

[15] Condition 7 notes that a Building Permit will be required if needed; a Building Permit is not always needed, as it is not in the Land Use Bylaw.

[16] The Board can add a permanent condition to stop any traffic from exiting onto Range Road 285, thereby making traffic exit the property onto Sunshine Road.

Appellant's Submissions

[17] Several immediate neighbours are in support of the accessory building being built.

[18] Sunshine road is a partially paved road.

[19] All residents have been previously approved by Rocky View County to exit their properties onto Range Road 285.

[20] The accessory building is for the storage of an RV, ATV's, cars and motorbikes. As well as to keep them protected and secure.

[21] The extra height of the building is to allow for the storage of an RV.

Appellant's Rebuttal

[22] None.

Development Authority's Closing Comments

[23] None.

Appellants Closing Comments

[24] None.

FINDINGS & REASONS FOR DECISION

[25] The proposed accessory building is a discretionary use in the Residential Two District, in accordance with section 50 of the *Land Use Bylaw*.

[26] 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*.

[27] The Board finds that the size relaxation would allow the appellant to house his acreage maintenance equipment, motor home and sports equipment out of sight to keep the property tidy. As well it will allow for keeping these items securely locked inside.

[28] The Board notes that several immediate neighbours supported the relaxations for the over-sized accessory building. Additionally the relaxations are minor in nature and would allow the building to be constructed similarly to other buildings on neighbouring properties.

[29] The Board finds that the proposed accessory building meets all required setbacks.

[30] 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.

[31] 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

[32] 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 July 11, 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 (17 pages)
2.	Development Authority's Presentation to the Board (6 pages)
3.	Appellant's Presentation to the Board (4 pages)