

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

Board Order No.: 2019-SDAB-042

File No.: 06304013; PRDP20191363

Appeal by: Brett Fitt

Appeal Against: Development Authority of Rocky View County

Hearing Date: 2019 August 28

Decision Date: 2019 September 11

Board Members: D. Kochan, Chair
D. Henn
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 August 6, 2019. In this decision the Development Authority refused a development permit for the construction of an accessory building (shop), the relaxation of the front yard setback requirement for an accessory building (proposed shop), the relaxation of the total building area for all accessory buildings, and the relaxation of the total number of accessory buildings at 260180 Range Road 284 (the Lands).

[2] Upon notice being given, this appeal was heard on August 28, 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 may be constructed on the subject land, and that the existing Accessory Buildings may remain on the subject land in general accordance with the approved plans.
 - (a) That the front yard setback requirement is relaxed from **45.00 m (147.64 ft.)** to **22.00 m (72.18 ft.)**.
 - (b) That the total accessory building area is relaxed from **225.00 sq. m (2,421.88 sq. ft.)** to **342.56 sq. m (3,687.29 sq. ft.)**.
 - (c) That the total number of accessory buildings is relaxed from **3** to **6**.

Permanent:

- (2) That the Accessory Buildings shall not be used for commercial purposes at any time, except for a Home-Based Business, Type I, or an approved Home-Based Business, Type II.
- (3) That the Accessory Buildings shall not be used for residential occupancy purposes at any time, unless approved under a separate development permit for an Accessory Dwelling Unit.
- (4) That there shall be no more than 1.00 m (3.28 ft.) of fill placed adjacent to or within 15.00 m (49.21 ft.) of the proposed building under construction, which is used to establish approved final grades unless a Development Permit has been issued for additional fill and topsoil.
- (5) 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

Advisory:

- (6) That any other federal, provincial, or County permits, approvals, and/or compliances, are the sole responsibility of the Applicant/Owner.
- (7) That a Building Permit and sub-trade permits shall be obtained through Building Services for the Accessory Buildings (where required).

BACKGROUND

[4] On April 30, 2019, Brett Fitt (the Owner) submitted a development permit application for an accessory building (personal storage shop).

[5] The Lands are located at NW4-04-26-28-W4M, located approximately 2.41 kilometres (1 1/2 miles) north of Township Road 260 and on the east side of Range Road 284. The Lands are approximately 1.17 hectares (2.89 acres) in area and are owned by Carmen and Brett Fitt.

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

[7] On August 6, 2019, the Development Authority refused to grant a development permit on the following grounds:

- (1) The requested front yard setback exceeds the requirements of Section 50.5 of the Land Use Bylaw C-4841-97. **Required front yard setback: 45.00 m (147.64 ft.). Requested front yard setback: 22.00 m (72.18 ft.).**
- (2) The requested total area for all accessory buildings exceeds the requirements of Section 50.9 of the Land Use Bylaw C-4841-97. **Permitted total area for all accessory buildings: 225.00 sq. m (2,421.88 sq. ft.). Requested total area for all accessory buildings: 342.56 sq. m (3,687.29 sq. ft.).**
- (3) The requested number of accessory buildings exceeds the requirements of Section 50.10 of the Land Use Bylaw C-4841-97. **Permitted number of accessory buildings: 3. Requested number of accessory buildings: 6.**

[8] On August 7, 2019, the Appellant appealed the Development Authority's decision. The Notice of Hearing was circulated to 14 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, Municipal Planner, for the Development Authority;
- (2) Sean MacLean, Planning and Development Supervisor, for the Development Authority
- (3) Brett Fitt, the Appellant.

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

- (1) Zahi Al Hakim
- (2) Farron Wick
- (3) John Curtis

- (4) Judy Curtis
- (5) Cliff Matheson
- (6) Dave Forrest
- (7) Judith Hildebrandt
- (8) Mike Hopps
- (9) Jay Masciangelo
- (10) John Dorion

[11] The Board received no letters in opposition to the appeal.

Development Authority's Submissions

[12] The proposed development requires various relaxations, including the total number accessory buildings on site.

[13] The total number of accessory buildings allowed on site is three the appellant is proposing six.

[14] There is a doghouse and well house on the property that are considered accessory buildings, these buildings do not require a Development Permit but are considered accessory buildings.

[15] An accessory building is a building that meets the definition of an accessory building and not dependant on the size of the building. These buildings do not always require a Development Permit.

[16] The Accessory Dwelling Unit is considered accessory building number three, and is currently in the process of being permitted as well.

Appellant's Submissions

[17] The Appellant did not think that the doghouse and the well house were accessory buildings when the Application was submitted.

[18] The shop will be used for the cars and vehicles on site to be stored and for hobby purposes.

[19] There will be no work done on cars from outsiders; it will be used for maintaining family cars.

[20] The shop will allow for increased security for the cars and vehicles on the lands.

[21] The Accessory Dwelling Unit (building three) was previously the old dwelling. The owners were not made aware when they purchased the lands that the building did not have a Development Permit.

[22] The proposed development was moved to accommodate the setback requirements, the building is now 22 meters from the road. The shop cannot be moved more due to the presence of a septic field.

Appellant's Rebuttal

[23] None

Development Authority's Closing Comments

[24] The conditions of approval, if approved, will need to be amended to require an updated site plan.

Appellant's Closing Comments

[25] Other buildings on site can be removed if necessary; however, if possible the appellant would prefer to keep the doghouse and remove the shed.

FINDINGS & REASONS FOR DECISION

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

[27] 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*.

[28] 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.

[29] The Board acknowledges that the proposed development will be well screened and provide for increased security of personal property.

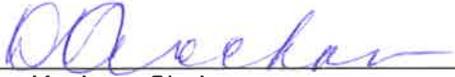
[30] The Board finds that there is a great amount of neighbourhood support for the proposed development. As well, the Board also finds that the issuance of a development permit will bring the property into compliance.

[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 September 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 (24 pages)
2.	Development Authority's Presentation to the Board (5 pages)
3.	Appellant's Site Plan (1 page)
4.	Petition from neighbours in support (1 page)