

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

Board Order No.: 2019-SDAB-046
File No.: 04617003; PRDP20191431

Appeal by: Mike and Corinna Bourbonnais
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 1, 2019. In this decision the Development Authority refused a development permit for the construction of an accessory building (garage), the relaxation of the size and height of an accessory building, and the relaxation to the total building area for all accessory buildings requirements at 15 Westwood Road (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 (Detached Garage) may be constructed on the subject land in general accordance with the approved plans.
 - (a) That the maximum size of the accessory building is relaxed from **120.00 sq. m (1,291.67 sq. ft.)** to **167.23 sq. m (1,800.00 sq. ft.)**.
 - (b) That the maximum height of the accessory building is relaxed from **7.00 m (22.96 ft.)** to **8.74 m (28.67 ft.)**.
 - (c) That the total building area for all accessory buildings is relaxed from **120.00 sq. m (1,291.67 sq. ft.)** to **180.96 sq. m (1,947.84 sq. ft.)**.

Permanent:

- (2) That the proposed Accessory Building (Detached Garage) 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 proposed Accessory Building (Detached Garage) shall not be used for residential occupancy purposes at any time.
- (4) That the exterior siding and roofing materials of the Accessory Building (Detached Garage) shall complement & be similar to the existing single-detached dwelling & grounds.
- (5) 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.
- (6) 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:

- (7) That any other Federal, Provincial, or County permits, approvals, and/or compliances, are the sole responsibility of the Applicant/Owner.

- (8) That during construction of the Accessory Building (Detached Garage), 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 the County's Noise Bylaw C-5772-2003 shall be adhered to at all times.
- (10) That a Building Permit and sub-trade permits shall be obtained through Building Services, prior to any construction taking place.

BACKGROUND

[4] On May 6, 2019, Mike and Corinna Bourbonnais (the Applicants) submitted a development permit application for an accessory building (garage).

[5] The Lands are located at NW-17-24-2-W5M, located 0.8 kilometres (1/2 mile) north of Lower Springbank Road and on the south side of Westwood Road. The Lands are approximately 0.85 hectares (2.09 acres) in area and are owned by Corinna Bourbonnais.

[6] The Lands' land use designation is Residential One, which is regulated in section 48 of the Rocky View County, *Land Use Bylaw C-4841-97* [the *Land Use Bylaw*].

[7] On August 1, 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 48.3 of Land Use Bylaw C-4841-97. **Required – 120.00 sq. m (1,291.67 sq. ft.); Proposed – 167.23 sq. m (1,800.00 sq. ft.).**
- (2) The height of the accessory building exceeds the requirement as defined in Section 48.9 of Land Use Bylaw C-4841-97. **Required – 7.00 m (22.96 ft.); Proposed – 8.74 m (28.67 ft.).**
- (3) The total building area for all accessory buildings exceeds the requirement as defined in Section 48.9 of Land Use Bylaw C-4841-97. **Required – 120.00 sq. m (1,291.67 sq. ft.); Proposed – 180.96 sq. m (1,947.84 sq. ft.).**

[8] On August 6, 2019, the Appellant appealed the Development Authority's decision. The Notice of Hearing was circulated to 20 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) Andrea Bryden, Municipal Planner, for the Development Authority;
- (2) Sean MacLean, Planning and Development Supervisor, for the Development Authority;

(3) Mike and Corinna Bourbonnais, the Appellants;

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

(1) Patrick and Vicki Chambers

(2) Larry Strong

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

Development Authority's Submissions

[12] December 12, 2018 the Appellants brought this matter to the Subdivision and Development and Appeals Board where Board Order 72-18 approved the accessory building.

[13] The height submitted with the new application differs from the height specified on Board Order 72-18. Therefore, a new development permit is needed.

Appellant's Submissions

[14] Accessory building engineering was started from scratch due to the original engineer not designing the garage properly.

[15] The second floor of the original accessory building was not designed high enough for someone to stand up; therefore, the height of the building was increased to accommodate that.

[16] All other setback requirements are the same with the exception of the height.

[17] The garage will have 10-foot doors to accommodate vehicles with bike racks on top of them as well as future vehicles.

[18] Requesting the maximum allowable height of 28-feet.

Appellant's Rebuttal

[19] None.

Development Authority's Closing Comments

[20] None.

Appellant's Closing Comments

[21] None.

FINDINGS & REASONS FOR DECISION

[22] An accessory building is a discretionary use in the Residential One, in accordance with section 48 of the *Land Use Bylaw*.

[23] 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*.

[24] 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.

[25] The Board acknowledges that several immediate neighbours are in support of the proposed development.

[26] The Board finds that the proposed accessory building will complement the structure that is presently on the property.

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

[28] 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

[29] 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 (75 pages)
2.	Development Authority's Presentation to the Board (15 pages)