

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

Board Order No.: 2019-SDAB-053
File No.: 06606003; PRDP20192331

Appeal by: John Eadie
Appeal Against: Development Authority of Rocky View County

Hearing Date: 2019 October 30
Decision Date: 2019 November 13

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 October 1, 2019. In this decision, the Development Authority refused a development permit for an existing Accessory Building, the relaxation of the minimum side yard setback requirement and the maximum total building area for all accessory buildings at 143 Rolling Acres Drive (the Lands).

[2] Upon notice being given, this appeal was heard on October 30, 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 existing accessory building (shed), may remain on the subject lands in accordance with the Real Property Report prepared by Global Raymac Surveys, dated September 14, 2017 (file no. 17CR1247) as submitted with the application and conditions #2.
- (2) That the minimum side yard setback requirement in accordance with the Real Property Report prepared by Global Raymac Surveys, dated September 14, 2017 (file no. 17CR1247) as submitted with the application, is relaxed from **3.00 m (9.84 ft.) to 1.35 m (4.43 ft.)**.
- (3) That the maximum total building area for all accessory buildings, in accordance with the Real Property Report prepared by Global Raymac Surveys, dated September 14, 2017 (file no. 17CR1247) as submitted with the application, is relaxed from **225.00 sq. m (2,421.88 sq. ft.) to 2,593.00 sq. ft. (240.90 sq. m)**.

Permanent:

- (4) That the existing accessory building (shed) 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.
- (5) That the existing accessory building (shed) shall not be used for residential occupancy purposes at any time.

Advisory:

- (6) That a Building Permit and sub-trade permits shall be obtained through Building Services if required.
- (7) That any other government permits, approvals, or compliances are the sole responsibility of the Applicant.
- (8) 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 July 9, 2019, John Eadie (the Owner) submitted a development permit application for the relaxation of the side yard setback and the relaxation of the excess square footage of the accessory building by retaining only three accessory buildings on site.

[5] The Lands are located at SE-06-26-02-W5M, located approximately 0.41 kilometres (1/4 mile) north of Burma Road and 0.41 kilometres (1/4 mile) east of Bearspaw Road, off Rolling Acres Place. The Lands are approximately 3.30 hectares (8.15 acres) in area and are owned by John Eadie.

[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 October 1, 2019, the Development Authority refused to grant a development permit on the following grounds:

- (1) The existing accessory building (shed) does not comply with the minimum side yard setback as defined in Section 50.5 (c) (iv) of Land Use Bylaw C-4841-97.

Required – 3.00 m (9.84 ft.); proposed – 1.35 m (4.43 ft.)

- (2) The maximum total building area for all accessory buildings exceeds the maximum total building area requirement as defined in Section 50.9 of Land Use Bylaw C-4841-97.

Required – 2,421.88 sq. ft. (225.00 sq. m); proposed – 2,593.00 sq. ft. (240.90 sq. m)

[8] On October 11, 2019, the Appellant appealed the Development Authority's decision. The Notice of Hearing was circulated to 23 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) Jessica Anderson, Municipal Planner, for the Development Authority;
- (2) John Eadie, the Appellant.

[10] The Board received one letter in support of the appeal from:

- (1) John Voss

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

Development Authority's Submissions

- [12] There are three accessory buildings on the lands; the total building area exceeds the maximum building area allowed.
- [13] The Development Authority has no discretion to be able to relax the total building area.
- [14] There is also a side yard setback relaxation within the application; the setback being requested exceeds the discretionary relaxation allowed by the Development Authority.
- [15] This Development Permit was applied for to bring the property into compliance following a compliance review on the parcel.
- [16] The proposal complies with all other requirements of the Land Use Bylaw.

Appellant's Submissions

- [17] The Real Property Report determined that there were issues with both the side yard setback and total building area.
- [18] This application was to remedy the compliance issues in order to sort out the property for the future.
- [19] The shop has a concrete floor and is used to store vehicles. The barn also has a concrete floor and is used as a workshop; and the shed is used for storage.
- [20] There was a similar application made and approved by the neighbouring property, 145 Rolling Acres Drive, in 2007.
- [21] The trees that are on the property are poplars and are fairly mature.

Appellant's Rebuttal

- [22] None.

Development Authority's Closing Comments

- [23] None.

Appellant's Closing Comments

- [24] None.

FINDINGS & REASONS FOR DECISION

- [25] An 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 acknowledges that this development permit will bring the property into compliance.

[28] The Board notes that the property is well screened and there is support from the adjacent landowner.

[29] 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.

[30] 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

[31] 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 November 13, 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 (20 pages) |
| 2. | Development Authority's Presentation to the Board (8 pages) |