

ROCKY VIEW COUNTY SUBDIVISION AND DEVELOPMENT APPEAL BOARD

Board Order No.: 2019-SDAB-056

File No.: 05632041; PRDP20192896

Appeal by: Dominic Urban

Appeal Against: Development Authority of Rocky View County

Hearing Date: 2019 November 20

Decision Date: 2019 November 26

Board Members:
D. Henn, Chair
T. Fehr
H. George
M. Goetjen
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 8, 2019. In this decision, the Development Authority refused a development permit for the construction of an accessory building (oversized garage) at 36 Meadow Bay (the Lands).

[2] Upon notice being given, this appeal was heard on November 20, 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 (oversized garage) may be constructed on the Lands in general accordance with the site plan, drawings submitted with the application (Hunter/Tristan Design) and conditions of this permit.
 - a) That the maximum building area of the accessory building (oversized garage) is relaxed from 120.00 sq. m (1,291.67 sq. ft.) to 144.56 sq. m (1,556.00 sq. ft.).
 - b) That the maximum total building area of all accessory building is relaxed from 120.00 sq. m (1,291.67 sq. ft.) to 144.56 sq. m (1,556.00 sq. ft.).

Prior-to-Issuance

2. That the existing 8x8 ft. garden shed shall be removed from the Lands prior to the construction of the accessory building (oversized garage).

Permanent

3. That the proposed accessory building (oversized 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.
4. That the proposed accessory building (oversized garage) shall not be used for residential occupancy purposes at any time.
5. That the exterior siding and roofing materials of the accessory building (oversized garage) shall be similar/ cohesive to the existing dwelling, single-detached and/or area.
6. 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.
7. That if the development authorized by the 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 the permit shall first have been granted by the Development Authority.

Advisory:

8. That any other federal, provincial, or County permits, approvals, and/or compliances, are the sole responsibility of the Applicant/Owner.
9. That during construction of the accessory building, 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.
10. That the County's Noise Bylaw C-5772-2003 shall be adhered to at all times.
11. That a building permit and sub-trade permits shall be obtained through the County's Building Services, prior to any construction taking place.

BACKGROUND

[4] On August 14, 2019, Dominic Urban (the Owner) submitted a development permit application for the construction of an accessory building (oversized garage).

[5] The Lands are located at Lot 1, Block 6, Plan 8810844; S-32-25-2-W5M and at the northwest junction of Meadow Bay and Meadow Drive. The Lands are approximately 0.81 hectares (2.00 acres) in area and are owned by Dominic and Kelsi Urban.

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

[7] On October 8, 2019, the Development Authority refused to grant a development permit for the construction of an accessory building (oversized garage) on the following grounds:

- (1) The size of the proposed accessory building (oversized garage) does not meet the maximum size requirement, as defined in section 48.3 of the *Land Use Bylaw*.

Required – 120.00 sq. m (1,291.67): Proposed – 144.56 sq. m (1,556.00 sq. ft.).

- (2) The size of the proposed accessory building (oversized garage) does not meet the total building area for all accessory buildings requirement, as defined in section 48.9 of the *Land Use Bylaw*.

Required – 120.00 sq. m (1,291.67): Proposed – 144.56 sq. m (1,556.00 sq. ft.).

[8] On October 24, 2019, the Appellant appealed the Development Authority's decision. The Notice of Hearing was circulated to 34 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, Planner, for the Development Authority;
- (2) Dominic Urban, the Appellant.

[10] The Board received no letters in support or in opposition to the appeal.

Development Authority's Submissions

[11] Accessory buildings greater than 80.27 sq. m (864.01 sq. ft.) and less than 120.00 sq. m (1,291.67 ft.) in building area are a discretionary use in accordance with section 48.3 of the *Land Use Bylaw*.

[12] The proposed 144.56 sq. m. (1,556.00 sq. ft.) size of the oversized garage requires a 20.50% relaxation exceeding the Development Authority's 10.00% variance authority outlined in section 12.2 of the *Land Use Bylaw*.

[13] The proposed 144.56 sq. m. (1,556.00 sq. ft.) size of the oversized garage requires a 20.50% relaxation for total building area for all accessory buildings as permitted in section 48.9 of the *Land Use Bylaw*. The *Land Use Bylaw* does not grant variance discretion to the Development Authority in this matter.

Appellant's Submissions

[14] He spoke with six neighbours in the area and they have no concerns with the proposed building. Three of these neighbours have similar sized buildings on their properties.

[15] He plans on keeping the mature trees on the Lands to serve as a screen for the proposed building

[16] The proposed building is designed to match the architecture of the home.

[17] The existing 8x8 ft. garden shed on the Lands will be removed before the construction of the proposed building.

[18] The building is needed to protect and store the possessions of his growing family.

Appellant's Rebuttal

[19] None.

Development Authority's Closing Comments

[20] None.

Appellant's Closing Comments

[21] The existing 8x8 ft. garden shed is cleaned out and will be sold in the next forty days.

[22] He feels he had fair opportunity to present his evidence to the Board.

FINDINGS & REASONS FOR DECISION

[23] The proposed 144.56 sq. m. (1,556.00 sq. ft.) accessory building (oversized garage) is a discretionary use in accordance with section 48.3 of the *Land Use Bylaw*.

[24] 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*.

[25] The Board acknowledges that the proposed accessory building (oversized garage) is consistent with the other structures on the Lands and in the area. The Board also notes that the Lands are well screened and the proposed accessory building (oversized garage) will meet all setback requirements.

[26] The Board finds that removing the existing 8x8 ft. garden shed will reduce the total building area for accessory buildings on the Lands.

[27] 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.

[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 November 26, 2019.



Daniel Henn, 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 (31 pages)