

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

Board Order No.: 2019-SDAB-057

File No.: 04328013; PRDP20193201

Appeal by: Thomas Jacob (Alta Genetics Inc.)

Appeal Against: Development Authority of Rocky View County

Hearing Date: 2019 November 20

Decision Date: 2019 November 28

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 16, 2019. In this decision, the Development Authority refused a development permit for the construction of an accessory building (oversized and over-height storage building) at 244151 Range Road 283 (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 and over-height storage building) may be constructed on the Lands in general accordance with the site plan and drawings submitted with the application and the conditions set below.
2. That the maximum building area for the proposed accessory building (oversized and over-height storage building) is relaxed from 190.00 sq. m (2,045.14 sq. ft.) to 334.45 sq. m (3,600 sq. ft.).
3. That the maximum building height for the proposed accessory building (oversized and over-height storage building) is relaxed from 5.50 m (18.04 ft.) to 11.25 m (36.9 ft.)

Permanent:

4. That the accessory buildings shall not be used for commercial purposes at any time, except for a Home-Based Business, Type I.
5. That the accessory buildings shall not be used for residential occupancy at any time.
6. That the exterior siding and roofing materials of the proposed accessory building (oversized and over-height storage building) shall be similar to the existing dwelling, single-detached and accessory buildings.
7. That during construction, the County's Noise Control Bylaw C-5772-2003 shall be adhered to at all times.
8. That during construction, all construction and building materials shall be maintained onsite 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.

Advisory:

9. That a County building permit for the proposed accessory building (oversized and over-height storage building) shall be obtained prior to any construction taking place.
10. That any other government permits, approvals, or compliances are the sole responsibility of the Applicant.
11. 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 September 6, 2019, Thomas Jacob of Alta Genetics Inc. (the Owner) submitted a development permit application for the construction of an accessory building (oversized and over-height storage building).

[5] The Lands are located at NE-28-24-28-W4M and located in the Conrich area, approximately 0.81 km (1/2 mile) north of Highway 1 and on the west side of Range Road 283. The Lands are 20 acres in area and are owned by Alta Genetics Inc.

[6] The Lands' land use designation is Agricultural Holdings District and is regulated in section 46 of the Rocky View County *Land Use Bylaw C-4841-97* (the *Land Use Bylaw*).

[7] On October 16, 2019, the Development Authority refused to grant a development permit for the construction of an accessory building (oversized and over-height storage building) on the following grounds:

- (1) The size of accessory building exceeds the maximum permitted as defined in section 46.3 of the *Land Use Bylaw*.

(Permitted – 190.00 sq. m (2,045.14 sq. ft.); Proposed – 334.45 sq. m (3,600 sq. ft.))

((Maximum variance – 10 %; Requested variance – 76%))

- (2) The height of the proposed accessory building exceeds the maximum permitted as defined in section 46.7 of the *Land Use Bylaw*.

(Permitted – 5.50 m (18.04 ft.); Proposed – 11.25 m (36.9 ft.)

(Maximum variance – 25%; Requested variance – 104.5%)

[8] On October 22, 2019, the Appellant appealed the Development Authority's decision. The Notice of Hearing was circulated to 56 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) Johnson Kwan, Planner, for the Development Authority;
- (2) Thomas Jacob for Alta Genetics Inc., the Appellant.

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

- (1) Carole Ellis Drury

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

Development Authority's Submissions

[12] In an Agricultural Holdings District, accessory buildings greater than 190.00 sq. m (2,045.14 sq. ft.) on parcels smaller than 16.20 hectares (40.03 acres) are a discretionary use in accordance with section 46.3 of the *Land Use Bylaw*.

[13] The proposed 334.45 sq. m. (3,600 sq. ft.) size of the storage building exceeds the 190.00 sq. m (2,045.14 sq. ft.) permitted in section 46.3 of the *Land Use Bylaw*. This proposal requires a 76.00% relaxation exceeding the Development Authority's 10.00% variance authority outlined in section 12.2 of the *Land Use Bylaw*.

[14] The proposed 11.25 m (36.9 ft.) height of the storage building exceeds the 5.50 m (18.04 ft.) permitted in section 46.7 of the *Land Use Bylaw*. This proposal requires a 104.5% relaxation exceeding the Development Authority's 25.00% variance authority outlined in section 12.2 of the *Land Use Bylaw*.

[15] There is no residence on neighbouring properties adjacent to where the accessory building will be built.

Appellant's Submissions

[16] The Lands are used to store ground feed and square and round bales. The bales and ground feed are currently stored outside with tarps.

[17] A third party comes to the Lands and grinds the hay twice a month.

[18] Storing the hay and ground feed outside results in a 25% loss due to wind and moisture.

[19] The proposed storage building will house the ground feed and square bale stacks resulting in higher quality feed and fewer losses.

[20] Storing the hay and feed inside will reduce the number of times grinding equipment enters the facility and will give them more control of semi traffic.

[21] The proposed height and size of the building will allow the needed equipment to enter and for more bales and ground feed to be stored.

Appellant's Rebuttal

[22] None.

Development Authority's Closing Comments

[23] None.

Appellant's Closing Comments

[24] None.

FINDINGS & REASONS FOR DECISION

[25] The proposed 334.45 sq. m. (3,600.00 sq. ft.) accessory building (oversized and over-height storage building) is a discretionary use in an Agricultural Holdings District in accordance with section 46.3 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 proposed accessory building (oversized and over-height storage building) is consistent with the area and other structures on the Lands and fits the purpose and intent of the Agricultural Holdings District.

[28] The Board finds that the proposed building (oversized and over-height storage building) will keep the Lands tidy and reduce traffic to the Lands.

[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 28, 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 (37 pages)
2.	PowerPoint presentation submitted by Appellant (10 slides)
3.	Letter in support from Carole Ellis Drury