

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

Board Order No.: 2019-SDAB-061

File No.: 07135004; PRDP20193996

Appeal by: Bradi and Doug Hansen

Appeal Against: Development Authority of Rocky View County

Hearing Date: 2019 December 11

Decision Date: 2019 December 20

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 November 26, 2019. In this decision, the Development Authority conditionally-approved a development permit for agriculture, general, construction of a dwelling, moved-in and construction of an accessory building at SW-35-27-26-W4M (the Lands).

[2] Upon notice being given, this appeal was heard on December 11, 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 varied. A development permit shall be issued subject to the following conditions:

Description:

1. That agriculture, general may take place on the Lands, in accordance with the approved application.

- a. That 39 animals (36 cattle and 3 horses) are permitted on the Lands at any time.
2. That a dwelling, moved-in, accessory to the principal use, may be placed on the Lands, in accordance with the approved site plan and application.
3. That construction of an accessory building (garage) may take place on the Lands, in accordance with the approved site plan and application.

Prior to Issuance:

Access:

4. That the Applicant/Owner shall provide an Access Easement Agreement and associated Right of Way Plan for the proposed private driveway, and register the Agreement and Plan on the land title of the affected lands.

Dwelling, Moved In

5. That a \$10,000 Irrevocable Letter of Credit shall be deposited with Rocky View County (the County) to ensure that conditions of this permit are satisfied. If the conditions of this permit are not met, the County may use the funds, enter onto the described land, and carry out the work necessary to meet the conditions.
6. That the Applicant/Owner shall confirm acceptance of or refusal to participate in the Voluntary Contribution for Community Recreation Funding on the form provided by the County, and that the contribution, if accepted, is \$800.00, calculated at \$800.00 for each residential unit.
7. That the Applicant/Owner shall contact County Road Operations and obtain an overweight/over dimension permit for travel on the County road system for the subject house move.
 - a. Written confirmation shall be received from County Road Operations confirming the status of this condition. Any required agreement or permits shall be obtained unless otherwise noted by County Road Operations.
8. That the Applicant/Owner shall submit a new approach application to County Road Operations, for approval for any new construction, installation, or alterations of any driveways/approaches.
 - a. Written confirmation shall be received from County Road Operations confirming the status of this condition. Any required agreement or permits shall be obtained unless otherwise noted by County Road Operations.

Permanent:

Dwelling, Moved In

9. That the dwelling, moved-in:
 - a. shall be placed on a foundation and the foundation shall be parged;
 - b. shall have the exterior steps finished to the satisfaction of the building inspector;
 - c. shall have all damage incurred during the move repaired; and
 - d. shall have the exterior completely finished.
10. That it is the Applicant/Owner's responsibility to obtain and display a distinct municipal address, in accordance with the County Municipal Addressing Bylaw (Bylaw C-7562-

2016), for each dwelling unit located on the subject site to facilitate accurate emergency response.

Agriculture, General (Keeping of Livestock)

11. That the Manure and Grazing Management Plan as submitted with the application shall be practiced at all times.
 - e. If overgrazing becomes evident on the Lands, revised grazing or manure management procedures may need to be implemented or the number of animal units may need to be decreased, upon request by the County.
12. That all manure shall be collected and disposed of off-site, composted, or worked into the fields on a continual basis weather permitting.
13. That if there is an excessive build-up of manure, that manure must be removed immediately.
14. That the Applicant/Owner shall ensure the Lands contain adequate livestock fencing, to ensure all livestock units remain on the Lands at all times

Accessory Building

15. That the accessory building shall not be used for commercial purpose at any time, except for a home-based business type I.
16. That the accessory building shall not be used for residential occupancy purposes at any time.
17. That the exterior siding and roofing materials of the accessory building shall be similar/cohesive to the existing shed, single-detached dwelling and/or area.

General

18. That there shall be no more than 1.00 m (3.28 ft.) of fill/topsoil placed adjacent to or within 15.00 m (49.21 ft.) of the proposed dwelling unit or accessory building under construction, which is used to establish approved final grades unless a development permit has been issued for additional fill and topsoil.
19. That any plan, technical submission, agreement, or other matter submitted and approved as part of the development permit application, or submitted in response to a prior to issuance or occupancy condition, shall be implemented and adhered to in perpetuity.

Advisory:

20. That building permits/farm building location permit and applicable sub-trade permits shall be obtained through County Building Services, prior to any construction taking place:
 - a. The dwelling, moved-in application shall utilize the Move-On Dwellings/Manufactured Homes checklist and shall include submitted pictures of CSA and AB labels for the Manufactured Home OR a structural review from a professional engineer to ensure compliance; and
 - b. The accessory building application shall utilize the accessory building or farm building location checklist.
21. That during construction, 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.

22. That during construction, the County's Noise Bylaw C-5772-2003 shall be adhered to at all times.
23. That the site shall remain free of restricted and noxious weeds and maintained in accordance with the *Alberta Weed Control Act* [Statutes of Alberta, 2008 Chapter W-5.1, December 2017].
24. That any other government permits, approvals, or compliances are the sole responsibility of the Applicant/Owner.
25. 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 Officer.
26. That if this development permit is not issued by **JULY 31, 2020** or the approved extension date, then this approval is null and void and the development permit shall not be issued.

BACKGROUND

[4] On November 4, 2019, Bradi and Dan Hansen submitted a development permit application for agriculture, general, construction of a dwelling, moved-in and construction of an accessory building.

[5] The Lands are located at SW-35-27-26-W4M and are 157.51 acres in size.

[6] The Lands' land use designation is Natural Resource Industrial District and is regulated in section 58 of the Rocky View County *Land Use Bylaw C-4841-97* (the *Land Use Bylaw*).

[7] On November 26, 2019, the Development Authority conditionally-approved the development permit application for agriculture, general, construction of a dwelling, moved-in and construction of an accessory building.

[8] On November 26, 2019, the Appellant appealed the Development Authority's conditions of approval. 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) Xin Deng, Planner, for the Development Authority;
- (2) Sean MacLean, Supervisor Planning and Development, for the Development Authority;
- (3) Noor Mirza, Municipal Engineer, for the Development Authority;

- (4) Larry Konschuk, representing the Appellant;
- (5) Bradi Hansen, the Appellant; and
- (6) Jim Dunn, in support of the appeal.

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

Development Authority's Submissions

[11] The development permit application was approved and conditions of approval were issued November 26, 2019.

[12] The Lands are designated Natural Resource District which does not allow for a dwelling or dwelling, moved-in unless the dwelling is accessory to the principal use listed under the Natural Resource District.

[13] The Appellant intends to apply general agriculture to the Lands by grazing 35 Black Angus cows, one Black Angus bull, and three horses on the Lands. The proposed dwelling, moved-in is then permissible as it is considered accessory to the principal use of general agriculture.

[14] In order to provide access to the Lands, the Appellants proposed to extend Range Road 262. The conditions of development require that the Appellants build the Range Road 262 extension to a Regional Low Volume Standard in accordance with the County's servicing standards. This would require that the Appellants enter into a development agreement with the County and provide security, which would be a minimum of \$150,000.

[15] The Appellants have indicated that they are not in a financial position to provide \$150,000 security and are subsequently asking that conditions 4 and 5 of the approved development permit be removed.

[16] In their appeal, the Appellants indicated that they would like to build a private driveway on the neighbour's property in order to gain access to the Lands instead of extending Range Road 262.

[17] The Development Authority recommends that if the Board removes conditions 4 and 5 from the approved development permit that the following condition be added to ensure that the Lands have access:

Prior to issuance of this permit, the Applicant/Owner shall provide an Access Easement Agreement and associated Right of Way Plan for the proposed private driveway, and register the Agreement and Plan on the land title of the affected lands.

[18] A line of credit can be received at a bank usually at an interest rate of 0.75%-1.00%.

Larry Konschuk Submissions

[19] He is appearing on behalf of the Appellants.

[20] The Appellants own the entire quarter section, not Lafarge.

[21] They are requesting the removal of conditions 4 and 5 of the development permit. The Appellants are not in a financial position to provide a \$150,000 security for the extension of Range Road 262.

[22] Getting a \$150,000 line of credit from a bank is a serious and difficult process.

[23] The Appellants are open to the Development Authority's proposed condition requiring an Access Easement Agreement and Right of Way Plan for the proposed private driveway.

[24] The Appellants have confirmation from the neighbours that they are willing to have the private driveway on their land.

Bradi Hansen Submissions – the Appellant

[25] There is an existing driveway on the Lands but it belongs to LaFarge and Lafarge intends to close and reclaim the road when the gravel pit ceases operations.

[26] The driveway through the neighbour's land would cost approximately \$4,000. The extension of Range Road 262 would cost approximately \$30,000, which they are not in a position to pay.

[27] They would also like to amend condition 13 so they can compost and remove the manure when the weather allows, not monthly.

Jim Dunn Submissions

[28] He is the father of the Appellant, Bradi Hansen, and is in support of the appeal.

[29] He would like this appeal to be approved in support of a young family wishing to pursue a life in agriculture.

Development Authority's Closing Comments

[30] Acceptable forms of security under County policy include a letter of credit, certified cheque or bank draft to a maximum of \$50,000. Personal cheques and cash are unacceptable forms of security.

Appellant's Closing Comments

[31] They are a young family that cannot afford to provide a \$150,000 security or \$30,000 to build the Range Road 262 extension to Rocky View County's standards.

FINDINGS & REASONS FOR DECISION

[32] The proposed general agriculture use and dwelling, moved-in are discretionary uses in a Natural Resource Industrial District in accordance with section 58 of the *Land Use Bylaw*.

[33] 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*.

[34] The Board finds that the proposed general agriculture use of the Lands fits the rural nature of the area and the purpose and intent of the Natural Resource Industrial District in accordance with section 58 of the *Land Use Bylaw*. The Board is satisfied that the dwelling, moved-in is accessory to the principal use of general agriculture.

[35] The Board heard from all parties that they were satisfied with amending the development permit conditions to allow access to the Lands through a private driveway instead of extending Range Road 262. The Board is satisfied that amending the development permit to require an Access Easement Agreement and associated Right of Way Plan for the proposed private driveway will ensure access to the Lands.

[36] 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.

[37] 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

[38] For the reasons set out above, the appeal is allowed and the decision of the Development Authority is varied. A development permit shall be issued subject to the above-noted conditions.

Dated at Rocky View County, in the Province of Alberta on December 20, 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 (61 pages)
2.	PowerPoint presentation submitted by Development Authority (9 pages)