

NOTICE OF DECISION

FILE NO. **SDAB 2017-010**

APPLICATION No.: **2017-DP-00705**

DEVELOPMENT: **Two Bedroom Basement Suite**

LAND USE DESIGNATION: **R1 – Single Detached Residential District**

LEGAL DESCRIPTION: **Lot 92, Block 2, Plan 3382TR**

CIVIC ADDRESS: **140 Beaverglen Close, Fort McMurray, Alberta**

IN THE MATTER OF AN APPEAL filed with the Regional Municipality of Wood Buffalo Subdivision and Development Appeal Board (“the Board”) pursuant to Sections 685 and 686 of the *Municipal Government Act*, R.S.A 2000, c. M-26 (“the Municipal Government Act”), the Appeal Hearing was held on Thursday, November 2, 2017 in the Jubilee Centre, Council Chamber, 9909 Franklin Avenue, Fort McMurray, Alberta.

BETWEEN:

Stephen and Christine Nash (“the Appellant”)

-and-

The Regional Municipality of Wood Buffalo (“the Municipality”)

BEFORE:

A. McKenzie, Chair
A. Austin
D. Secord
R. Wells

Administration:

S. Soutter, Clerk for the Subdivision and Development Appeal Board

- [1] Following the introduction of the Board, the Chair confirmed with the parties in attendance that there were no objections to the constitution of the Board.

PRELIMINARY MATTERS

[2] No preliminary matters were raised.

SUMMARY OF HEARING

[3] This Appeal is related to the approval of an application for a two bedroom basement suite. The lands are zoned R1- Single detached residential district and the use as a basement suite is a discretionary use and is within the authority of the Development Officer to approve.

[4] The Development Officer started the proceedings with a verbal presentation of her written report indicating that the application for a four (4) bedroom basement suite was received on May 8, 2017. After reviewing the application with the Applicant, the request was revised to a two (2) bedroom basement suite.

[5] Prior to rendering a decision, the application was circulated to other municipal departments. As no concerns or objections were raised, the application was approved on August 14, 2017.

[6] The Development Officer noted that upon review of the application, it was determined that the Applicant can provide three (3) parking stalls on the property.

[7] Furthermore, the Development Officer stated that site visits were conducted on October 20 and October 23, 2017, to confirm the Appellants claims of “excess company vehicles parked along the street”. The Development Officer found that the home was still under construction and paving of the driveway had not taken place yet. The report also noted that there weren’t any company vehicles associated with the applicant parked on the street at that time.

[8] The Development Authority recommends that the Subdivision and Development Appeal Board uphold the decision of the Development Officer and approve Development Permit 2017-DP-00705. The Applicant has demonstrated to the satisfaction of the Development Officer that the property can accommodate the necessary parking stalls required for the principal dwelling and the basement suite. Also, it is deemed that this use will not interfere with the use, enjoyment, and value of adjacent properties, or the amenities of the neighbourhood.

Submission In Favor Of The Appeal

[9] As no-one appeared on behalf of the appellants, the Clerk read in to the record comments noted on the Appeal Form. “House is operated as company housing, already excess personal vehicles and company vehicles parked along street, in a family neighbourhood. Cars are left for extended periods of time. House is already over occupied”.

Submission Opposed To The Appeal:

[10] Speaking in opposition to the appeal, the Board heard from Billy Graham, Business Development Officer for the Applicant (“the Applicant”), who provided the Board with an overview of their submission stating that although the house is owned by a business, no business would be conducted from the property. The Applicant explained the parking situation indicating that the intention with the proposed position of the driveway is to allow for adequate off street parking. The applicant further mentioned that even with the additional parking, they are able to maintain the required soft landscaping.

[11] The Applicant added that the home would be occupied by family and not employees of the business.

[12] In closing the Applicant respectfully requested a favorable decision from the Board.

[13] Upon conclusion, the Chair asked the parties present, if they felt that the hearing was conducted in a fair manner. No issues were brought to the Board’s attention.

FINDINGS OF FACT

[14] The Board makes the following findings of fact:

- a. The Property is zoned R1 – Single Detached Residential District;
- b. The use of the proposed development as a basement suite is a discretionary use and is compatible with the surrounding properties;
- c. The application meets the requirements of the Land Use Bylaw and is able to provide the required parking stalls on the property.

DECISION

- [15] **It is the decision of the Subdivision and Development Appeal Board to deny the appeal and uphold the decision of the Development Authority. The application for Development Permit 2017-DP-00705 is APPROVED.**

REASONS FOR THE DECISION

- [16] After weighing the relevant planning legislation and submissions of the parties, the Board found that the Applicant meets the requirements of the Land Use Bylaw and is able to sufficiently provide parking on the property to accommodate the two bedroom basement suite.

EVIDENCE

- [17] Due to a lack of evidence on the part of the Appellant the Board found in favour of the Applicant. The Board feels that it is the responsibility of a person alleging a set of facts, to prove those facts. The person or party seeking a decision from the Board has the onus (burden of proof) to prove their case. The Appellants in this case have the obligation to bring sufficient evidence to convince the Board, and there was no compelling evidence presented in this regard.
- [18] In light of the absence of the Appellants, the Board did not hear any evidence that would elaborate on the allegation of excessive parking, nor did the Board see that there would be any intensification in the neighbourhood by allowing this development.
- [19] Therefore, as the Applicant has satisfied the requirements of the Land Use Bylaw, the Board accepts the recommendations of the Development Authority and finds that the proposed development would not materially interfere with or affect the use, enjoyment and value of the surrounding properties. The Appeal is denied and the Board allows the approval of the development permit.
- [20] It is so ordered.

[21] The decision of the Subdivision and Development Appeal Board is final and binding on all parties, subject only to appeal to the Court of Appeal under Section 688 of the *Municipal Government Act*, R.S.A 2000, c. M-26

Dated at the Regional Municipality of Wood Buffalo in the Province of Alberta, this 17th day of November 2017.

CHAIR:

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Alex McKenzie

APPENDIX "A"

DOCUMENTS RECEIVED AND CONSIDERED BY THE SDAB:

EXHIBIT NO.	ITEM	DATE FILED
1.	Notice of Appeal	2017-09-21
2.	Record of Proceedings – Jurisdictional Call	2017-10-19
3.	Development Permit 2017-DP-00705	2017-09-27
4.	Planners Report	2017-10-27
5.	Property Owners Submission	2017-10-26
6.	Plot Plan	2017-11-02

APPENDIX "B"

REPRESENTATIONS

PERSON APPEARINGCAPACITY

1.	A. Yasin	Development Officer, Planning and Development Regional Municipality of Wood Buffalo
2.	T. Tester	Supervisor, Development Control Regional Municipality of Wood Buffalo
3.	B. Graham	Applicant - Subject Property Owner