



REGIONAL MUNICIPALITY
OF WOOD BUFFALO

SUBDIVISION AND DEVELOPMENT APPEAL BOARD

**NOTICE OF DECISION
OF THE SUBDIVISION AND DEVELOPMENT APPEAL BOARD**

FILE NO. **SDAB-2014/033**

APPLICATION No.: **2014-DP-01617**

DEVELOPMENT: **Two Bedroom Basement Suite**

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

LEGAL DESCRIPTION: **Lot 25, Block 44, Plan 082 8607**

CIVIC ADDRESS: **284 Falcon Drive, Fort McMurray, Alberta**

IN THE MATTER OF AN APPEAL filed with the Regional Municipality of Wood Buffalo Subdivision and Development Appeal Board pursuant to Sections 685 and 686 of the *Municipal Government Act*, R.S.A 2000, c. M-26, the Appeal Hearing was held on Thursday, January 8, 2015 in the Jubilee Centre, Council Chamber, 9909 Franklin Avenue, Fort McMurray, Alberta.

BEFORE:

D. Secord, Chair
R. Bourgeau
F. Baiyewun
C. Field
P. Klug
S. Schaffer

Administration:

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

PRESENT:

For the Appellants:

No one appeared on behalf of the Appellant

For the Respondent:

N. Mian, Property Owner

For the Development Authority:

Jocelyn Appleby, Planner I, Planning & Development Department
Ilzett Thomson Supervisor, Development Control and Permitting

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

[1] No preliminary matters were raised.

SUMMARY OF HEARING:

[2] This Appeal is related to the approval of Development Permit 2014-DP-01617, being an application for a two bedroom Basement Suite. The area is zoned R1 – Single Detached Residential and a Basement Suite is a discretionary use. Therefore, the proposed use, being a basement suite is within the authority of the Planner to approve.

[3] The approving Officer started the proceedings with a verbal presentation of her written report. The application for the development was received October 21, 2014. Upon review of the proposed basement suite, it was determined that the applicant can provide three on-site parking stalls, two will be provided within a detached garage and one on the driveway, therefore, there is no anticipated impact on adjacent properties from parked vehicles.

[4] The Development Authority stated that there is no anticipated impact on adjacent properties and that there will be no negative impact on the use, enjoyment, amenities or value of adjacent properties.

In favor of the Appeal

[5] No one came forward to speak in favour of the appeal.

Opposed to the Appeal:

[6] The property owner N. Mian came forward to speak in opposition to the appeal.

[7] He stated that he operates a limousine service and that he stores his vehicle for the business in the garage.

[8] He stated that he is able to provide the required parking stalls for the suite.

- [9] He stated the basement was fully finished by the original home builder and only requires the addition of appliances to become a basement suite.
- [10] He stated that safety is paramount to him and the application for the development permit ensures that the suite is constructed in compliance with the guidelines and regulations as set out by the Municipal Bylaws and Regulations.
- [11] 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.

DECISION:

- [12] **In accordance with Section 687 of the *Municipal Government Act*, it is the decision of the Subdivision and Development Appeal Board to deny the appeal and uphold the decision of the Development Officer and approve Development Permit 2014-DP-01617.**

FINDINGS OF FACT

- [13] The Board makes the following findings of fact:
- a. The Property is zoned R1 – Single Detached Residential;
 - b. The use is a discretionary use;
 - c. The applicant is able to provide three parking stalls on the property; and
 - d. That there will be no negative impact on the use, enjoyment, amenities or value of adjacent properties.

REASONS FOR THE DECISION:

- [14] After weighing the relevant planning legislation, the Board found that the Applicant is able to provide sufficient parking on the property to accommodate the two bedroom basement suite.
- [15] The duty of the Board is to decide on the use and evaluate the development based on the discretionary nature of the use. Determining the use is essential in helping the Board decide whether the development does not fit within the neighborhood. The Board determined that the nature of this use of a Basement Suite, which is a discretionary use in the ND zone, is an allowable use.

EVIDENCE:

The only evidence provided to the Board in favor of the appeal were the comments provided on the Notice of Appeal Form.

- [16] 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 evidence presented in this regard.

LEGISLATION

- [17] Section 687(3)(d) of the Municipal Government Act, RSA 2000, c. M-26

687(3) In determining an appeal, the subdivision and development appeal board

[...]

(d) may make an order or decision or issue or confirm that the issue of a development permit even though the proposed development permit does not comply with the land use bylaw if, in its opinion,

(i) the proposed development would not

(A) unduly interfere with the amenities of the neighbourhood, or

(B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land.

- [18] The intent of the legislation is to ensure that the required on-site parking is sufficient and can be accommodated on the property and that parking stalls will be provided on the subject property to service the principal residence and the suite, without requiring any vehicles to be located on the street.

- [19] No evidence was brought forward to persuade the Board, the Board found that the subject property has sufficient parking; therefore, there would be no impact on the surrounding area.

- [20] For these reasons the Board denies the Appeal and approves the Development Permit for the two-bedroom basement suite.

- [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 20th day
of January 2015.

CHAIR: **David Secord**
David Secord

APPENDIX "A"

DOCUMENTS RECEIVED AND CONSIDERED BY THE SDAB:

EXHIBIT NO.	FILED BY	ITEM	DATE FILED
1.	Appellant	Notice of Appeal	12/08/2014
2.	P&D	Planners Report	12/18/2014
3.	Respondent	Respondents Submission	01/02/2015

APPENDIX "B"

REPRESENTATIONS

PERSON APPEARING

CAPACITY

- | | | |
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| 1. | J. Appleby | Planner I, Planning and Development
Regional Municipality of Wood Buffalo |
| 2. | I. Ilzett | Supervisor, Development Control and Permitting
Regional Municipality of Wood Buffalo |
| 4. | N. Mian | Subject Property Owner |