



REGIONAL MUNICIPALITY  
OF WOOD BUFFALO

SUBDIVISION AND DEVELOPMENT APPEAL BOARD

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

FILE NO. **SDAB 2016-012**

APPLICATION No.: **2016-DP-02931**

DEVELOPMENT: **One Bedroom Basement Suite**

LAND USE DESIGNATION: **R2 – Low Density Residential District**

LEGAL DESCRIPTION: **Lot 33, Block 5, Plan 002 1165**

CIVIC ADDRESS: **Unit B, 221 Warren Way, 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, February 2, 2017 in the Jubilee Centre, 7<sup>th</sup> Floor Boardroom, 9909 Franklin Avenue, Fort McMurray, Alberta.

**BETWEEN:**

S. Wilson and L. LeBlanc (“the Appellants”)

-and-

Regional Municipality of Wood Buffalo (“the Municipality”)

S. Pandit (“the Applicant”)

**BEFORE:**

S. Schaffer, Chair

A. Austin

A. Gauthier

A. McKenzie

R. Wells

**Administration:**

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

**JURISDICTION**

[1] Following a January 3, 2017 motion the Board agreed:

*In order to maintain jurisdiction of the appeal SDAB 2016-012  
be opened and adjourned to February 2, 2017,*

**SUMMARY OF HEARING**

- [2] 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.
- [3] This Appeal is related to the approval of an application for a one-bedroom basement suite. The lands are zoned R2 – Low Density Residential 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 was received on October 31, 2016. Prior to rendering a decision the application was circulated to other municipal departments. No concerns or objections were raised and as a result the application was approved on December 2, 2016. The subject property is located in the Wood Buffalo neighbourhood and the home was destroyed in the 2016 Wildfire and did not have a basement suite prior to the fire.
- [5] The report made reference to the concerns of the Appellants as indicated on the appeal forms. The reasons given were that allowing this development would change the dynamic of the neighbourhood as it is a busy street and that the homes on the other side of the street do not have driveways, and that there is limited parking. The Development Officer stated that the Application was reviewed with respect to the number of bedrooms, independent access, facilities and prior enforcement issues. No issues were found and given that the application satisfied the requirements of sections 26.4 and 130.9 of Land Use Bylaw it was subsequently approved.

*Land Use Bylaw 99/059*

*130.9 Basement Suites*

- (a) a minimum of one on-site parking stall shall be provided for each bedroom in a basement suite to a maximum of two on-site parking stalls;*
- (b) the on-site parking stall requirement for basement suites is in addition to the parking requirement for the single detached or semi-detached dwelling;*
- (c) all on-site parking stalls shall remain accessible for parking by passenger vehicles at all times and shall be directly accessible to the street at all times.*

*26.4 In reviewing a development permit application for a “Discretionary Use - Planning Commission”, the Municipal Planning Commission shall have regard to:*

- (a) the circumstances and merits of the application, including but not limited to:
  - (i) the impact of such nuisance factors as smoke, airborne emissions, odors and noise on nearby properties;*
  - (ii) the design, character and appearance of the development being compatible with and complementary to the surrounding properties; and*
  - (iii) the servicing requirements for the proposed development.**
- (b) the purpose and intent of any statutory plans adopted by the Municipal District.*

- [6] With respect to parking, the Development Officer noted that upon review of the application it was determined that the Applicant can provide four parking stalls on the property leaving room for the tenants to park without having to make use of the roadway. Two parking stalls will be provided within the garage and the other two can be accommodated on the driveway.
- [7] Furthermore, the Development Officer stated that a total of five basement suites have been approved in this area (as of January 25, 2017), two of these are awaiting the appeal period to elapse.

- [8] The Development Authority recommends that the Subdivision and Development Appeal Board uphold the decision of the Development Officer and approve Development Permit 2016-DP-02931 as the Applicant has demonstrated to the satisfaction of the Development Officer that the intent of Land Use Bylaw can be met, that the character of this neighborhood will not be negatively impacted, and that this development will not adversely affect the use, enjoyment, amenity or value of adjacent properties.

Submission In Favor Of The Appeal

- [9] The Board notes no-one was present on behalf of either of the Appellants and no-one came forward to speak in favour of the appeal. Comments noted on the appeal form were read into the record by the Clerk. The reasons stated for the appeal were listed as; limited parking, one-side of the street has no driveways, busy street and changes the dynamic of the neighbourhood (its family oriented).

Submission Opposed To The Appeal:

- [10] In opposition to the Appeal the Board heard from J. Young, (“the Builder”) who was present on behalf of the Applicant. The Builder reiterated the Development Officers comments that the Bylaw only required three parking stalls and that the Applicant can provide four stalls on the property. As mentioned the houses on the opposite side of the street have rear access therefore that is the side of the street where majority of the street parking occurs.
- [11] The Applicant informed the Builder that the only observation he has made with regard to parking is that his neighbors would park their own vehicles on the street outside their homes so as to deter other vehicles from parking in front of their homes.
- [12] Through questioning from the Board, the Builder commented that currently there is an impact on the street from construction vehicles due to the rebuilding of homes that were lost during the Wildfire.
- [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 R2 – Low Density Residential;

- b. The use of the proposed development as a basement suite is a discretionary use; and is compatible with the surrounding properties.
- c. The applicant exceeds the requirements of the Land Use Bylaw and is able to provide four 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 2016-DP-02931 is APPROVED.**

### **REASONS FOR THE DECISION**

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

### **EVIDENCE**

[17] Due to a lack of evidence 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 limited parking, nor did the Board see that there would be any intensification in the neighbourhood by allowing this development. Furthermore the notion of the Appellants that this development would change the dynamic of the neighbourhood is unsupported, the purpose of R2 district is to provide for mixed forms of low density residential development in the Urban Service Area

[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.

**LEGISLATIVE FRAMEWORK**

[20] In rendering its decision the Board used its authority found in 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.*

*(ii) the proposed development conforms with the use prescribed for that land or building in the land use bylaw.*

[21] It is so ordered.

[22] 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 \_\_\_\_\_ day of \_\_\_\_\_ 2017.

CHAIR:

Sean Schaffer

**APPENDIX "A"**

DOCUMENTS RECEIVED AND CONSIDERED BY THE SDAB:

<b>EXHIBIT NO.</b>	<b>ITEM</b>	<b>DATE FILED</b>
1.	Notice of Appeal - LeBlanc	12-21-2016
2.	Notice of Appeal – Wilson	12-21-2016
3.	Agent Authorization	12-28-2016
4.	Development Permit Approval	01-10-2016
5.	Approved Plan	01-10-2017
6.	Planner’s Report	01-26-2017

**APPENDIX “B”**

REPRESENTATIONS

**PERSON APPEARING**

**CAPACITY**

- |    |           |  |
|----|-----------|--|
| 1. | J. Kaur   | Development Officer, Planning and Development<br>Regional Municipality of Wood Buffalo |
| 2. | T. Tester | Supervisor, Development Control<br>Regional Municipality of Wood Buffalo               |
| 3. | J. Young  | Builder - Subject Property   |