



REGIONAL MUNICIPALITY  
OF WOOD BUFFALO

SUBDIVISION AND DEVELOPMENT APPEAL BOARD

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

FILE NO. **SDAB-2015/003**  
APPLICATION No.: **2014-DP-00426**  
DEVELOPMENT: **Accessory Building (Detached Garage)**  
LAND USE DESIGNATION: **HR – Hamlet Residential**  
LEGAL DESCRIPTION: **Lot 80, Plan 831 1906**  
CIVIC ADDRESS: **125 Bohn Street, Janvier, 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, February 19, 2015 in the Jubilee Centre, Council Chamber, 9909 Franklin Avenue, Fort McMurray, Alberta.

**BEFORE**

K. Hughes, Chair  
R. Bourgeau  
F. Baiyewun  
P. Klug  
S. Schaffer

**Administration:**

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

**PRESENT**

**For the Appellants:**

J. London, Applicant

**For the Respondent:**

A. Layton, Development Officer

**For the Development Authority:**

I. Thompson, Supervisor, Development Control

- [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 a refusal to grant a development permit for an Accessory Building (Detached Garage) 278.74 square meters, which exceeds the maximum permitted size of 140 square meters for accessory buildings. The refusal was issued under the authority of the Development Officer.
- [4] The Development Officer started the proceedings with a verbal presentation of her written report. The application for the development was submitted by the Applicant and upon review of the site plan by the Development Officer, it was determined the size of the accessory building exceeded the maximum size permitted.
- [5] The Applicant was notified that he would need to revise the size of the accessory building or the permit would be refused as it is outside the authority of the Development Officer to vary the conditions. Further to that it was discovered that the accessory building was already constructed without any development or safety code permits. Subsequently, a development permit refusal letter was issued on January 5, 2015.
- [6] The report noted that a Stop Order was issued for this property once it was verified that the accessory building was already constructed. In addition, the applicant informed the Development Officer that there is no longer a principle building on the property. The Development Officer indicated that in order to approve the development permit for the accessory building (detached garage), it is required to be accessory to a principal use or building. Therefore with no principle building on the property it is in contravention of the Land Use Bylaw.
- [7] The Development Authority recommends that the Subdivision and Development Appeal Board uphold the decision of the Development Officer, as the accessory building does not meet the regulations in Land Use Bylaw and was built without the required development and safety code permits.

**Submission In Favor Of The Appeal**

- [8] The Board heard from the Applicant and Subject Property Owner J. London, who confirmed that construction of the accessory building had started before receiving the required permits. He indicated that due to the rural location of his property there are no municipal offices available in the locality.
- [9] The Applicant also confirmed that at present there is no principle building on the property, he indicated that there had been a mobile home on the property, but that it got burglarized and during the burglary the water was left running and that froze the whole residence, which resulted in his insurance company deeming it inhabitable and ordered its removal

from the property. The Applicant stated that he does have future plans to put a principal building on the property.

[10] The applicant added that the primary purpose of this accessory building is to safely store his belongings and recreational vehicles for his family's use.

[11] The Clerk read in written comments (Exhibit 4) submitted by an adjacent property owner who stated that he has no objection to the accessory building and feels that it would not affect his or any other surrounding properties.

Submission Opposed To The Appeal:

[12] No one came forward to speak in opposition to the appeal.

[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.

**DECISION**

[14] **It is the decision of the Subdivision and Development Appeal Board to uphold the appeal and overturn the decision of the Development Officer and approve Development Permit 2014-DP-00426 with the standard conditions as they apply to accessory buildings.**

- a. All Federal, Provincial and Municipal Statutes and Regulations shall be met, including the Alberta Building Code.
- b. All required safety code permits within the Safety Code Act in the building, mechanical, electrical, gas, plumbing and private sewage disciplines must be obtained for this Development.

**FINDINGS OF FACT**

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

- a. The Property is zoned HR – Hamlet Residential District;
- b. The use is a permitted use;
- c. The proposed coverage of the accessory building will be 278.74 square meters;
- d. The Applicant was well aware he required a development permit to construct the accessory building.
- e. At the present time there is no principle building on the subject property.

**REASONS FOR THE DECISION**

[16] In accordance with Section 687 (d) (ii) of the *Municipal Government Act* the Board finds that the proposed development, as an accessory building conforms with the use prescribed for that land.

- [17] After weighing the relevant planning legislation, and hearing the submission of the parties the Board determined that the accessory building will not affect the use, enjoyment, value and amenity of the neighbourhood.

**EVIDENCE**

- [18] There was no evidence provided to the Board to show the impact on the use and enjoyment of the surrounding properties nor was there any evidence provided to show a lack of compatibility within the neighbourhood.
- [19] During the parties submissions the Board learned that the accessory building had been constructed prior to receiving a determination from the Development Authority, the Board wishes to state that it is prudent upon applicants in any development permit application to familiarize themselves with the permitting process, additionally the Development Authority should, ensure that applicants are receiving proper instructions on what is entailed in the full process and the consequences should a permit be refused.
- [20] The Board realizes that there is no primary structure on the property at the current time, and that the classification of this structure is an accessory building which means its use must be ancillary to a principal use of the lot. Based on the information provided to the Board by the Applicant, he does have intentions of constructing a primary structure in the future. The Boards main concern is more so with the use of the accessory building, therefore in this matter the Board considered this specific development and feels that approval of this development in this location is appropriate.
- [21] The Boards responsibility is to determine that the development will be compatible with adjacent properties and uses and will not adversely affect the area; the Board concludes that there will be no negative impact on the use, enjoyment, and value of the adjacent properties.
- [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 3rd day of March 2015.

**K. Hughes**  
CHAIR:

Kevin Hughes

**APPENDIX "A"**

DOCUMENTS RECEIVED AND CONSIDERED BY THE SDAB:

<b>EXHIBIT NO.</b>	<b>FILED BY</b>	<b>ITEM</b>	<b>DATE FILED</b>
1.	Appellant	Notice of Appeal	01-15-2015
2.	Appellant	Development Permit Refusal	01-15-2015
3.	Respondent	Planners Report	01-29-2015
4.	Appellant	Written comments from adjacent property owner	02-19-2015

**APPENDIX "B"**

REPRESENTATIONS

**PERSON APPEARING**

**CAPACITY**

- |    |             |  |
|----|-------------|--|
| 1. | A. Layton   | Development Officer, Planning and Development<br>Regional Municipality of Wood Buffalo |
| 2. | I. Thompson | Supervisor, Development Control<br>Regional Municipality of Wood Buffalo               |
| 3. | J. London   | Applicant - Subject Property Owner   |