



REGIONAL MUNICIPALITY
OF WOOD BUFFALO

SUBDIVISION AND DEVELOPMENT APPEAL BOARD

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

FILE NO. **SDAB-2015/009**

APPLICATION No.: **2015-DP-00208**

DEVELOPMENT: **Two Bedroom Secondary Suite**

LAND USE DESIGNATION: **ND – Neighbourhood District**

LEGAL DESCRIPTION: **Lot 86, Block 1, Plan 142 1369**

CIVIC ADDRESS: **424 Dixon Road, 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, June 11, 2015 in the Jubilee Centre, Council Chamber, 9909 Franklin Avenue, Fort McMurray, Alberta.

BEFORE

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

Administration:

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

PRESENT

For the Appellants:

L. Burgess

For the Respondent:

S. Smith

For the Development Authority:

D. Fitzgerald, Development Officer
T. Tester, 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.

SUMMARY OF HEARING

- [2] This Appeal is related to the approval of Development Permit 2015-DP-00208, an application for the development of a one bedroom secondary suite. The area is zoned ND – Neighbourhood District and secondary suite is a discretionary use, therefore the proposed use, being a secondary suite is within the authority of the Planner to approve.
- [3] The Planner started the proceedings with a verbal presentation of the written report. The application for the development was received on March 24, 2015. Upon review of the proposed secondary suite, it was determined that the applicant can provide three on-site parking stalls, therefore, there is no anticipated impact on adjacent properties from parked vehicles.
- [4] The Development Authority feels that as long as the details and conditions of the Development Permit are upheld, there will be no negative impact on the use, enjoyment, amenities or value of adjacent properties.

Submission In Favor Of The Appeal

- [5] Adjacent property owner L. Burgess addressed the Board by stating that the main reason for appealing the approval of this secondary suite was the potential impact it will have in causing an increase in the vehicles in area which will generate congestion on the streets. As well the visibility of congestion will impact on the value of their home.
- [6] He stated that they purchased their home, which is located in a cul-de-sac for the specific reason of not having to face crowded streets as this was an issue they encountered with their previous home, in different location. He and his wife believe that the primary reason for over crowded streets is the development of secondary suites, as this increases the populous in each home, which in turn impacts the on street parking.
- [7] The speaker also raised a concern with regard to a fire hydrant located in close proximity to their homes and that in the event of a fire; any congestion on the street would affect access to the fire hydrant.

Submission Opposed To The Appeal:

- [8] S. Smith, Subject Property Owner addressed the Board by stating that as a previous landlord she is well aware of the requirements of the Bylaw with regard adhering to the parking standards. She also added that in their previous home they had a two bedroom basement suite and that this does in fact increase the value of the property. She requested that the Board uphold the Decision of the Development Officer and approve the development permit application.
- [9] 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

- [10] **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 the Development Permit 2015-DP-00208.**

REASONS FOR THE DECISION

- [11] After weighing the relevant planning legislation, the Board found that the Applicant is able to provide sufficient parking on the property to accommodate the one bedroom secondary suite.
- [12] The Board determined that relaxation of the parking requirement has the effect of lessening the incentive of property owners to construct illegal Secondary suites and encourages owners to apply for permits. It also allows for follow up safety inspections to be completed to ensure the construction meets safety codes.
- [13] 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 or not the development fits within the neighborhood. The Board determined that the nature of this use, a Secondary Suite, which is a discretionary use in the ND zone, is an allowable use.

EVIDENCE

- [14] There was no evidence provided to the Board to show the impact on the use and enjoyment of the surrounding properties which would give the board grounds to exercise its authority under section 687 of the *Municipal Government Act*. Furthermore, there was no evidence provided to show a lack of compatibility within the neighbourhood.
- [15] 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 Appellant in this case has the obligation to bring sufficient evidence to convince the Board, and as there was no evidence presented in this regard, the Board must then base its decision on the facts before it.
- [16] The Board accepted the arguments of both parties, but due to the lack of evidence the Board rendered a decision based on the facts before them. Therefore as long as the conditions of development permit are being upheld; there will be no negative impact on the use, enjoyment, and value of the adjacent properties.
- [17] In closing, the Board understands the concerns of residents with regards to parking issues faced within the Municipality, but wishes to state that the jurisdiction of the Subdivision and Development Appeal Board is to hear appeals derived from Land Use Bylaw 99/059, pursuant to the *Municipal Government Act*, R.S.A 2000, c. M-26. The Board encourages residents to utilize enforcement services available by contacting the Bylaw Services Complaint Line 780-788-4200, or Bylaw Services Branch Administration Line 780-788-4040, or other entities that are available. Residents can also access www.woodbuffalo.ab.ca for a list of services available through the Regional Municipality of Wood Buffalo.
- [18] 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 26th day of June 2015.

CHAIR: Kevin Hughes
Kevin Hughes

APPENDIX "A"

DOCUMENTS RECEIVED AND CONSIDERED BY THE SDAB:

EXHIBIT NO.	FILED BY	ITEM	DATE FILED
1.		Subject Area Map	File Copy
2.	Appellant	Notice of Appeal	05-01-2015
3.	Respondent	Planners Report	05-14-2015

APPENDIX "B"

REPRESENTATIONS

PERSON APPEARING

CAPACITY

- | | | |
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| 1. | D. Fitzgerald | Development Officer, Planning and Development
Regional Municipality of Wood Buffalo |
| 2. | T. Tester | Supervisor, Development Control
Regional Municipality of Wood Buffalo |
| 3. | L. Burgess | Appellant – Adjacent Property Owner |
| 4. | S. Smith | Applicant - Subject Property Owner |