

NOTICE OF DECISION

FILE NO. **SDAB 2017-009**

APPLICATION No.: **2017-DP-01195**

DEVELOPMENT: **Accessory Building**

LAND USE DESIGNATION: **SE – Suburban Estate Residential District**

LEGAL DESCRIPTION: **Lot 12, Block 6, Plan 142 4227**

CIVIC ADDRESS: **145 Janke Lane, 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, August 31, 2017 in the Jubilee Centre, Council Chamber, 9909 Franklin Avenue, Fort McMurray, Alberta.

BETWEEN:

Wayne Woodhouse (“the Appellant”)

-and-

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

BEFORE:

D. Secord, Chair
A. Austin
A. McKenzie
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 refusal of the Development Authority to grant a development permit for an accessory building (detached garage).
- [4] The Development Officer started the proceedings with a verbal presentation of her written report. The application for the development of a second accessory building (detached garage 10.98 x 9.14m) was received on June 21, 2017.
- [5] The report noted that the proposed accessory building of 100.36 m² would exceed the maximum allowable site coverage for accessory buildings on the subject property. The application was reviewed by the Development Authority and subsequently refused on July 20, 2017. The refusal indicated that the application did not comply with section 50.7 of the *Land Use Bylaw* which states “In residential districts, the maximum site coverage, for accessory buildings shall be (b) in all other residential districts, 12% of the lot area or 140.0m², whichever is less, for parcels under 2.0 hectares.” The refusal also indicated that part (b) of section 50.7 applies because the subject property resides in the rural, residential area, not the urban area.
- [6] The Development Officer went on to state that the subject property is 0.8 hectares, and is located in the rural residential area of Sapræe Creek in the SE- Suburban Estate Residential District. Section 50.7(b) of the Land Use Bylaw 99/059 limits the size of accessory buildings on rural residential lots. As the subject property already has an existing accessory building (detached garage) of 139.29 m², the second accessory building would exceed the maximum allowable site coverage.
- [7] She also stated that the Appellant applied for a second detached garage in August 2015, but was denied because of the limitation set by section 50.7 of the *Land Use Bylaw*.
- [8] It was further noted that the Variance Authority was also considered pursuant to section 28.2 (c) of the *Land Use Bylaw* which states “the Development Authority may allow a variance to increase the permitted lot coverage by (ii) up to two percent (2%) of the maximum lot coverage for accessory buildings.” Therefore, the variance permitted for the subject property is insufficient to allow for the proposed accessory building due to the two percent of 140.0m² (the maximum allowable site coverage for accessory buildings on rural parcel less than 2.0 hectares) is only 2.8 m² which is not large enough to allow for the proposed 100.36 m² accessory building. In order to approve the proposed accessory building, the variance of 71% would be required.

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- [9] The Development Authority recommends that the Subdivision and Development Appeal Board uphold the decision of the Development Officer and deny Development Permit 2017-DP-01195 as the proposed development does not comply with section 50.7 of the *Land Use Bylaw*.

Submission In Favor Of The Appeal

- [10] The Board heard from W. Woodhouse, the Appellant, who indicated that he is a hobbyist vintage vehicle collector and recently completed construction of a new home and detached shop in Saprae Creek. He indicated that one of the reasons he moved to Saprae Creek was because of the larger properties which would accommodate storage for his vehicle collection.
- [11] Mr. Woodhouse indicated that upon design of the existing accessory building on the subject property, he was aware that additional covered storage space would be required and applied for a accessory building permit in July of 2017.
- [12] He went on to further indicate that he is aware of the legislative requirements relative to accessory buildings and that his current accessory building is about 139 m², which is close to the allowable maximum of 140 m² as per the *Land Use Bylaw*.
- [13] Mr. Woodhouse indicated that he is aware of the intent of the legislation to provide controls on accessory buildings and to prevent this zoned area of a Surburban Estate Residential District from becoming a large industrial area for storage warehouses. He further indicated that he feels that the *Land Use Bylaw* is too restrictive and fails to allow for accessory buildings that can be built to meet the intention of the Saprae Creek area, and having aesthetically pleasing architectural controls.
- [14] Mr. Woodhouse went on to indicate that the lot size of his proprety is 2 acres or 8,072 square meters. The current house and buildings sizes is 543 m², hard landscaping is 1,622 m² and soft landscaping is 5,807 square meters. The proposed accessory building would be 100.26 square meters in size which would bring his total building coverage to approximately 8 percent of the lot. It was noted that upon reviw of the *Land Use Bylaw*, there is no restriction on the size of a home that can be built, as long as archtitectural controls are met. He indicated that he has the option to make an application to expand his current home to include a building of the size of the accessory building as long as it is attached to his current dwelling. It is his understanding that he can apply for a permit to construct a breezeway to connect the home and existing accessory building as one

dwelling. This would allow him to apply for the proposed accessory building which he feels would meet the requirements of the *Land Use Bylaw*.

- [15] In closing, the Appellant indicated that the proposed accessory building would maintain equivalent roof lines and wall heights that match the existing structure as well as have the same exterior finishings as the existings buildings. He noted that the proposed structure would be located in the southwest corner of the lot backing on to the green space which is somewhat hidden from the main road (Exhibit 3).

Submission Opposed To The Appeal:

- [16] No one came forward to speak against the appeal.
- [17] 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

- [18] The Board makes the following findings of fact:
- a. The Property is zoned SE – Suburban Estate Residential District;
 - b. The proposed accessory building is a permitted use.
 - c. The proposed building (detached garage) measures 100.36 m².
 - d. There currently is an approved accessory building on the lot.
 - e. The variance is outside of the authority of Development Officer to approve.

DECISION

- [19] **It is the decision of the Subdivision and Development Appeal Board to uphold the decision of the Development Officer and deny the appeal.**

REASONS FOR THE DECISION

- [20] After reviewing the submissions of the parties and the relevant planning legislation the Board found that the site coverage exceeds the maximum allowed by the *Land Use Bylaw*.
- [21] Although the Board has the authority to relax the standards, and even though this property is of a larger size there still has to be a balance between site coverage by buildings and structures and soft landscaping.

[22] The intent of the legislation by stipulating the maximum variance authority of the Development Officer, allows the Development Authority the ability to maintain uniformity within areas. Bylaws and standards are created to control development within the Municipality; standards establish rules stipulating what can be developed, and how it must be built. To allow excessive adjustments departs from the intentions of the Land Use Bylaw.

[23] It is so ordered.

[24] 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 14th day of September 2017.

CHAIR: David Secord
David Secord

APPENDIX "A"**DOCUMENTS RECEIVED AND CONSIDERED BY THE SDAB:**

EXHIBIT NO.	ITEM	DATE FILED
1.	Notice of Appeal (6 pages)	2017-07-27
2.	Development Permit Refusal Letter (2 pages)	2017-07-27
3.	Appellants Disclosure (7 pages)	2017-08-23
4.	Planners Report (10 pages)	2017-08-28

APPENDIX "B"**REPRESENTATIONS****PERSON APPEARING****CAPACITY**

1.	A. Collis	Development Officer, Planning and Development Regional Municipality of Wood Buffalo
2.	C. Booth	Supervisor, Development Control Regional Municipality of Wood Buffalo
3.	W. Woodhouse	Applicant - Subject Property Owner