

## NOTICE OF DECISION

FILE NO. **SDAB 2017-007**

APPLICATION No.: **2017-DP-00512**

DEVELOPMENT: **Two Bedroom Basement Suite**

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

LEGAL DESCRIPTION: **Lot 62, Block 10, Plan 142 2560**

CIVIC ADDRESS: **Unit #B 192 Chalifour Crescent, 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, June 29, 2017 in the Jubilee Centre, Council Chamber, 9909 Franklin Avenue, Fort McMurray, Alberta.

**BETWEEN:**

B. Abbas (“the Appellant”)

-and-

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

**BEFORE:**

D. Secord, Chair  
A. McKenzie  
S. Schaffer  
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.

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**JURISDICTION**

[2] Following a June 8, 2017 motion the Board agreed:

*In order to maintain jurisdiction of the appeal, SDAB 2017-007 be opened and adjourned to June 29, 2017.*

*CARRIED UNANIMOUSLY*

**SUMMARY OF HEARING**

- [3] This Appeal is related to the approval of an application for a two-bedroom basement suite. The lands are zoned ND - Neighbourhood District 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 indicated that a site inspection was conducted on March 18, 2017 and it was discovered that the home owner had converted a previously approved one bedroom suite into two separate suites. Following the inspection, an application for a two bedroom basement suite was received on March 30, 2017. Upon review of the application it was determined that the Applicant can provide three on-site parking stalls and the approved permit was issued on April 27, 2017.
- [5] The Development Officer noted that approval of the development was advertised in the local newspaper as required under the bylaw and notifications were mailed out via regular Canada Post mail to all adjacent property owners within a 60 meter squared radius.
- [6] With respect to any future development such as an accessory building (detached garage), this would require a development permit and would be vetted through the normal process in accordance with the requirements of the *Land Use Bylaw*. If the home owner is found to be in contravention of the development permit enforcement will ensue.
- [7] The Development Authority recommends that the Subdivision and Development Appeal Board uphold the decision of the Development Officer and approve Development Permit 2017-DP-00512 as the Applicant has demonstrated an intention to bring his property into compliance in accordance with the requirements of the *Land Use Bylaw*. Furthermore approval of this development will not adversely affect the use, enjoyment, amenity or value of adjacent properties.

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Submission In Favor Of The Appeal

- [8] The Board heard B. Abbas, Appellant and tenant of the principle dwelling of the subject property. At the on-set of his presentation the Appellant questioned the mail out of the notifications from the Planning and Development Department, as some of his neighbors informed him that they did not receive notification of the approved permit.
- [9] The Appellant stated that he opposes the approval of the development permit whereby the subject property owner has rented out the basement as two separate units. One unit has one bedroom with a hot plate and bathroom and the other unit is a one bedroom plus bathroom, kitchen and living area. The Appellant added that due to inadequate ventilation odor from cooked food is emitted to the upstairs from the unit that uses the hot plate.
- [10] The Appellant questioned the design of the neighbourhood where one side of the street has single family detached dwellings that have two bedroom basement suites and the other side of the street has semi-detached dwellings that have one bedroom basement suites.
- [11] In closing the Appellant requested that the Board not approve the application for the two bedroom basement suite and not allow the suite to be rented to two separate people.
- [12] The Clerk read in to the record written comments received from C. Robinson (Exhibit 6) who raised concerns with regard to parking and maintenance of the subject property.

Submission Opposed To The Appeal:

- [13] Subject Property Owner A. Martsynkevch, confirmed that adequate parking can be provided on the property and added that a double car garage is being built which shouldn't add any constraints to the current parking on the property.
- [14] 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**

- [15] The Board makes the following findings of fact:
- a. The Property is zoned ND - Neighbourhood District which allows for mixed forms of residential housing.

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- b. The use of the proposed development as a basement suite is a discretionary use; and is compatible with the surrounding properties;
  - c. The subject property is able to sufficiently provide parking as required under the *Land Use Bylaw*;
  - d. Approval of basement suites is done in accordance with section 53.5 of the *Land Use Bylaw*, "...a basement suite shall be limited to a maximum of one less the number of bedrooms than the principal dwelling on the lot."
  - e. The principle dwelling has three bedrooms therefore in accordance with the *Land Use Bylaw* the basement suite can have up to two approved bedrooms.
  - f. A maximum of one basement suite is permitted per single detached or semi-detached dwelling.

### **DECISION**

[16] **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 2017-DP-00512 is APPROVED.**

### **REASONS FOR THE DECISION**

[17] The issue before the Board is whether this two-bedroom basement suite is in keeping with requirements of the *Land Use Bylaw* and consistent with the surrounding area. After weighing the submissions of the parties and the relevant planning legislation, the Board finds that approval of the application for the two bedroom basement suite is in keeping with the requirements of the *Land Use Bylaw* and that adequate parking can be provided on-site.

### **EVIDENCE**

[18] During the hearing, the Board heard from the Appellant, Subject Property Owner and the Development Authority, as well as the written comments received from adjacent property owner C. Robinson. The Board would like to thank all the parties for their presentations as their respective positions were carefully presented.

- [19] During the presentations the Appellant questioned the notification system of the Planning and Development Department to which the Development Officer clarified that approval of the development permit was advertised in the local newspaper and notifications were mailed out to adjacent property owners within a 60 meter squared radius. The Board notes the section 29.3 of the Land use Bylaw states “...*the decision of the Development Authority is deemed to have been given on the day when the notice of decision has been published in the newspaper or five (5) calendar days after the notice of decision has been mailed to the applicant and adjacent landowners or occupants or other affected parties or land owners as determined by the development authority*”. The Board is satisfied that the requirements of the legislation have been met by the Planning and Development Department.
- [20] Additionally the Appellant questioned the topography of the housing on the street and the process in which applications for basement suites are vetted. After hearing comments from T. Tester, Supervisor, Community Development Planning and reviewing the requirements of the *Land Use Bylaw*, the Board is confident that all applications for Basement Suites are issued in accordance with section 53 or the *Land Use Bylaw*, which requires:

*53. Basement Suites*

*53.1 Basement suites shall be restricted to single detached dwellings, semi-detached dwellings and manufactured homes.*

*53.2 A maximum of one (1) basement suite may be permitted per single detached or semi-detached dwelling.*

*53.3 A basement suite shall comply with the Safety Codes Act or its successor.*

*53.4 On-site parking shall be provided for a basement suite pursuant to Part 7 of this Bylaw. Parking on the front or side yard shall be prohibited in all urban and*

*hamlet residential districts where lots are less than 0.405 hectares, except on a driveway. All parking stalls shall be available for passenger vehicles and accessible to the street at all times.*

*53.5 A basement suite shall be limited to a maximum of 1 less the number of bedrooms than the principal dwelling on the lot.*

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- [21] Further to that, in his closing statements the Appellant requested that the Board not allow the suite to be rented to two separate people, the Board understands these concerns and those of residents with regards to contraventions of development permits and 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](http://www.woodbuffalo.ab.ca) for a list of services available through the Regional Municipality of Wood Buffalo.
- [22] The Subject Property Owner has shown a desire to bring his property into compliance, and has satisfied the requirements of the *Land Use Bylaw*, and the Board strongly recommends that the Subject Property owner continue to adhere to all conditions of the approved development permit as any deviation will constitute a violation that may result in cancellation or enforcement action.
- [23] 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.
- [24] It is so ordered.
- [25] 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 10th day of July 2017.

CHAIR:

David Secord  
David Secord

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

<b>EXHIBIT NO.</b>	<b>ITEM</b>	<b>DATE FILED</b>
1.	Notice of Appeal	2017-05-19
2.	Appellants Written Submission	2017-05-19
3.	Development Permit 2017-DP-00512	2017-06-06
4.	Development Officers Report	2017-06-22
5.	Appellants Supplementary Submission	2017-06-29
6.	Written Submission – C. Robinson	2017-06-29

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

1.	A. Mohmmand	Development Officer, Planning and Development Regional Municipality of Wood Buffalo
2.	T. Tester	Supervisor, Development Control Regional Municipality of Wood Buffalo
3.	B. Abbas	Appellant – Adjacent Property Owner
4.	A. Martsynkevch	Applicant - Subject Property Owner