

NOTICE OF DECISION

FILE NO. **SDAB 2025-003**

APPLICATION No.: **2025-VC-00008 for Development Permit No. 2024-DP-00026**

DEVELOPMENT: **Rear Garage - Rear Yard Setbacks**

LAND USE DESIGNATION: **R1S – Single Family Small Lot Residential District**

LEGAL DESCRIPTION: **Lot 37, Block 35, Plan 0725263**

CIVIC ADDRESS: **183 Loutit Road, 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 Wednesday, September 10, 2025 via Microsoft Teams in Fort McMurray, Alberta.

BETWEEN:

Taqi Hasan (“the Appellant”)

-and-

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

BEFORE:

D. Cleaver (Chair)

A. McKenzie

T. Salisbury

Administration:

H. Fredeen, Clerk for the Subdivision and Development Appeal Board

S. Soutter, Manager, Tribunals & Committee’s

- [1] The Chair reviewed the Board’s process for the hearing. There were no objections raised regarding the Board’s process.
- [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.

PRELIMINARY MATTERS*Jurisdictional Matter – July 16, 2025*

- [3] At a preliminary hearing held via Microsoft Teams on July 16, 2025, regarding File No. SDAB 2025-003, it was noted by the Clerk, that an appeal was filed on June 24, 2025 against the refusal of Variance Certificate No. 2025-VC-0008, an application to reduce the rear setbacks requirements at the Subject Property located at 183 Loutit Road, Fort McMurray Alberta. Section 682(2) of the *Municipal Government Act* requires that the Subdivision and Development Appeal Board hold an appeal hearing within 30 days after receipt of an appeal.
- [4] The Clerk advised that the earliest available date to hold a hearing on the appeal matter was September 10, 2025. As September 10, 2025 falls outside of the required 30 days, the Board determined that in order preserve jurisdiction over the appeal, the hearing was formally opened and adjourned to August September 10, 2025.

MERIT HEARING**Summary of Hearing***Submission of the Municipality*

- [5] This matter arises from the refusal of Variance 2025-VC-00008, which relates to the construction of an accessory building (detached garage) previously approved under Development Permit 2024-DP-00026.
- [6] The Development Permit granted approval for a detached garage with a 1.0 metre rear setback. Upon inspection following construction, the garage was found to have been built with setbacks of 0.23 metres (west corner) and 0.31 metres (east corner), which do not comply with the Land Use Bylaw No. 99/059 (the Land Use Bylaw) requirements.
- [7] The Development Authority submitted that following development permit approval, upon inspection, the as-built garage was found to have rear setbacks of 0.23 metres at the west corner and 0.31 metres at the east corner, representing reductions of 77% and 69% respectively.
- [8] A variance application (2025-VC-00008) was submitted to legalize the as-built setbacks but was refused on June 19, 2025. The Development Authority explained that under Section 28.4(a) of the Land Use Bylaw, it may only grant variances of up to 50% from the setback requirements, and therefore it had no jurisdiction to approve the requested variances.

- [9] The Development Authority further submitted that, on the merits, the proposed variance would not unduly interfere with the amenities of the neighbourhood, nor materially affect the use, enjoyment, or value of neighbouring parcels. The structure remains a permitted use in the R1S District, is consistent with the general character of the area, and creates no adverse visual or access impacts.
- [10] The refusal was therefore required by law, based on jurisdictional limits rather than planning concerns.

Submission of the Appellant

- [11] The Appellant submitted that they do not disagree with the setback requirements in the Land Use Bylaw and recognize their purpose. However, they noted that there is no requirement to obtain a survey prior to construction, and that many homeowners, including themselves, measure from the lane or asphalt, which can result in errors.
- [12] The Appellant indicated that this appears to be a common mistake, as evidenced by other garages in the area. They further submitted that their garage is now fully constructed, with the roof and vehicle door complete, and that its current placement does not negatively affect the neighbourhood. In their view, the garage does not interfere with the use, enjoyment, or value of neighbouring properties and is consistent with surrounding development.
- [13] The Appellant emphasized that moving the structure back to meet the required setback would involve lifting and relocating the entire building and extending the driveway, which would be prohibitively costly and impractical. On this basis, the Appellant requested that the Board approve the variance and allow the as-built setbacks to remain.
- [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 Subject Property is located at 183 Loutit Road in the R1S – Single Family Small Lot Residential District.
 - b. Accessory buildings, including detached garages, are a permitted use in the R1S District.
 - c. Development Permit 2024-DP-00026 was approved on February 29, 2024, authorizing the construction of a detached garage with a required rear setback of 1.0 metres. The garage was subsequently constructed with rear setbacks of 0.23 metres at the west corner and 0.31 metres at the east corner.

- d. The Development Authority determined that, notwithstanding the jurisdictional limit, the as-built garage does not unduly interfere with the amenities of the neighbourhood, materially affect the use or enjoyment of neighbouring parcels, or create adverse visual impacts, and is consistent with the character of the district

Decision

- [16] **It is the decision of the Subdivision and Development Appeal Board to UPHOLD the Appeal. The application for 2025-VC-00008 for Development Permit No. 2024-DP-00026 is APPROVED. All conditions found in the Development Permit are upheld and form part of this development approval pursuant to section 27 of Land Use Bylaw No. 99/059.**

Reasons for The Decision

- [17] The Board notes that its jurisdiction is found within Section 687(3) of the *Municipal Government Act*. In making this decision, the Board has examined the provisions of the Land Use Bylaw and has considered the oral and written submissions by and on behalf of the Respondent and the Appellant.
- [18] The Board accepts that the garage was constructed with rear setbacks of 0.23 metres and 0.31 metres, representing reductions of 77% and 69% from the required 1.0 metre setback. While these reductions exceed the 50% variance jurisdiction of the Development Authority under Section 28.4(a) of Land Use Bylaw, the Board notes that it is not bound by the same limitation when hearing an appeal under the *Municipal Government Act*.
- [19] The Board acknowledges the Appellant's explanation that the placement error arose because no survey was required prior to construction and that measuring from the lane or asphalt is a common practice that can result in mistakes. The Board further accepts the Appellant's submission that the garage, as constructed, does not interfere with the use, enjoyment, or value of neighbouring parcels.
- [20] The Board considered the Development Authority's submission that, while the as-built garage does not appear to have any undue impact on adjacent properties or neighbourhood amenities, the refusal was issued because the magnitude of the variance exceeded the discretion granted under the Land Use Bylaw.
- [21] The Board finds that the as-built garage is consistent with the character of the district, does not encroach on municipal or private property, and does not impede access to neighbourhood amenities. The Board is satisfied that the variance does not unduly interfere with neighbouring parcels or the amenities of the neighbourhood.
- [22] For these reasons, the Board overturns the decision of the Development Authority to refuse Variance Certificate 2025-VC-00008, and the appeal is therefore upheld.

Dated at the Regional Municipality of Wood Buffalo in the Province of Alberta, this 18 day
of September 2025.

CHAIR: _____

ATIA s. 20(1)

Dean Cleaver

APPENDIX "A"

DOCUMENTS RECEIVED AND CONSIDERED BY THE SDAB:

Exhibit #	Description	Filing Date
1.	Subject Area Map	2025-06-25
2.	Notice of Appeal (2 pages pages)	2025-06-24
3.	Evidence Disclosure – Appellant (5 pages)	2025-09-02
4.	Evidence Disclosure – Municipality (22 pages)	2025-09-03

APPENDIX "B"

REPRESENTATIONS

Person Appearing	Capacity
Jesse Tjepkema	Development Officer
Lee-Anne Kumka	Development Authority Supervisory
Taqi Hasan	Appellant