

---

Appeal File Number:	020-STU-003
Application Number:	305305-20-D0041
Appeal Against:	Development Authority of Sturgeon County
Appellants:	Mike and Amanda Hrynychuk
Date and Location of Hearing:	April 21, 2020 Held via Teleconference
Date of Decision:	May 5, 2020
SDAB Members:	Chair Julius Buski Wayne Bokenfohr, Dave Kluthe, Allan Montpellier, Amanda Papadopoulos

---

#### NOTICE OF DECISION

---

**IN THE MATTER OF** an appeal by Mike and Amanda Hrynychuk against the Development Authority’s refusal of a development permit for a proposed garden suite (1,470 square feet) located at NE 31-55-22-W4 within Sturgeon County.

- [1] This is the decision of the Sturgeon County Subdivision and Development Appeal Board (the “SDAB” or “Board”) on an appeal filed with the SDAB pursuant to section 685 of the *Municipal Government Act*, R.S.A. 2000, c. M-26 (the “MGA” or “Act”).
- [2] In making this decision, the Board reviewed all the evidence presented and considered provisions of the *Municipal Government Act*, Sturgeon County’s Land Use Bylaw 1385/17 (the Land Use Bylaw or LUB) and Sturgeon County’s Municipal Development Plan (MDP), and any amendments thereto.
- [3] The following documents were received prior to the hearing and form part of the record:
- The Notice of Appeal, including the Appellant’s reasons for appeal;
  - A copy of the development permit application with attachments and the refused development permit;
  - The Development Officer’s written decision; and
  - Development Services Report

#### **PRELIMINARY MATTERS**

- [4] On March 17, 2020, as a result of the closure of Sturgeon County offices due to the COVID-19 pandemic and time required for Administration to make modified SDAB hearing arrangements through teleconference, the Board adjourned the hearing to April 21, 2020.

#### **PROCEDURAL MATTERS**

- [5] The appeal was filed on time and in accordance with section 686 of the MGA.
- [6] There were no objections to the proposed hearing process as outlined by the Chair. The Appellants agreed to proceed with the hearing via teleconference as permitted by the Meeting Procedures (COVID-19) Suppression Regulation.
- [7] There were no objections to the composition of the Board hearing the appeal.
- [8] The Board is satisfied that it has jurisdiction to deal with this matter.

#### **ISSUE**

- [9] The Appellants raised the following grounds of appeal:
- The proposed garden suite is over the allowable square footage; however, modern mobile homes are now commonly built 20 feet wide.
  - The garden suite is still moveable and will be placed on blocks.
  - The home-based business is mobile and has no customers or employees coming or going from the property.

#### **RECOMMENDATION OF THE DEVELOPMENT AUTHORITY**

Carla Williams, representative for the Development Authority, provided a presentation which outlined the Development Authority's refusal of development permit application 305305-20-D0041 for the following reasons:

- [10] Section 6.25.4(b) of the Land Use Bylaw, Garden Suites, states that the maximum floor area shall not exceed 111.5 square metres (1,200 square feet) in AG and R1 districts. This parcel is districted as AG - Agricultural and the total floor area of the proposed garden suite is 136 square metres (1,470 square feet).
- [11] Section 6.25.1(i) of the Land Use Bylaw, General Regulations for all Suites, states that notwithstanding section 2.8, variances to maximum floor area shall be refused by the Development Authority. A variance of 24.5 square metres (264 square feet) in floor area, or 22%, is requested as part of the application and must be refused.
- [12] Section 6.25.1(j) of the Land Use Bylaw, General Regulations for all Suites, states that a secondary suite, garage suite, or garden suite shall not be permitted on the same parcel containing a semi-detached dwelling, group home (major or minor), family day home, farm help accommodation, bed and breakfast, or home-based business (level 2 or 3). Development Permit 305305-18-00175

to operate a Home-Based Business Level 2 (mobile food trailer Boardwalk Cafe Ltd.) was issued on May 30, 2018 on the subject parcel.

#### **SUMMARY OF APPLICANTS'/APPELLANTS' POSITION**

- [13] The garden suite is larger than what is allowed but this is due to new mobile homes being manufactured at 20 feet wide. The additional width is what adds to the square footage and brings the overall size close to 1,500 square feet.
- [14] The unit will sit on blocks and be fully moveable.
- [15] The business that operates from the property is a mobile food truck and operates away from the home. There is only one vehicle coming and going for the business.
- [16] The location chosen for the suite is the optimum placement due to the topography of the property and there is a ravine along the back which helps with drainage.
- [17] The two derelict buildings on the property are uninhabitable and as soon as practicable, these structures will be demolished.
- [18] The appellants travel out of country in the winter months, and a garden suite will allow for additional security with someone attending on-site to watch over the property.
- [19] Should the Board decide to grant the appeal, the conditions recommended by the Development Officer are acceptable.

#### **DECISION**

- [20] **The Board GRANTS the appeal, REVOKES the decision of the Development Authority made on March 5, 2020 to refuse development permit application 305305-20-D0041, and APPROVES the development permit with the following conditions:**
  - 1. Prior to any construction occurring on site, a separate building permit shall be obtained and approved.
  - 2. Separate electrical, gas, plumbing and private sewage disposal permits shall be obtained as required.
  - 3. The garden suite shall be placed in accordance with the approved site plan.
  - 4. The garden suite shall not exceed 136.6m<sup>2</sup> (1,470ft<sup>2</sup>) in floor area as approved.
  - 5. The garden suite shall not have a basement nor an attached garage.
  - 6. The suite shall be designated a Civic Address in the interest of service delivery and public safety. Any personal costs incurred due to an address change will be at the sole expense of the landowner.
  - 7. The suite shall utilize the shared approach with the single detached dwelling located on the parcel.
  - 8. The exterior finish of the garden suite shall be completed within two years of the date of issuance of the development permit and shall be designed and finished in a manner that is visually compatible with the single detached dwelling.

9. There shall be a minimum of one on-site parking stall provided for each bedroom contained within the garden suite.
10. No development shall encroach on or be erected on an easement or right-of-way unless the owner of the encroaching structure has obtained written consent from the owner or licensee to which the easement or right-of-way has been granted.
11. Drainage measures undertaken as part of a development shall not negatively impact adjacent parcels by way of flooding or inundation through the redirection of surface water. In the event that the drainage of a development is found to affect adjacent parcels, all mitigating measures required to remedy the problem including drainage structures, drainage easements and retaining walls shall be at the sole expense of the landowner of the parcel where the mitigating measures are required.
12. If the development authorized by a permit is not commenced within 12 months from the date of its issuance, or is not carried out with reasonable diligence, the development permit approval ceases and the development permit is deemed to be void, unless an extension to this period has been previously granted by the Development Authority.
13. No person shall keep or permit in any district any object or chattel which, in the opinion of the Development Approving Authority, is unsightly or tends to adversely affect the amenities of the district. Any excavation, storage or piling up of materials required during the construction stage shall have all necessary safety measures undertaken and the owner of such materials or excavation assumes full responsibility to ensure the situation does not prevail any longer than reasonably necessary to complete a particular stage of construction work.

#### Advisory Notes

1. Garden suite means a single-story secondary suite developed at grade which is located in a building separate from the principal use which is a single detached dwelling. A garden suite has cooking, sleeping and sanitary facilities which are separate from those of the principal dwelling located on the parcel.
2. Minimum construction standards will conform to the requirements of the Alberta Building Code, 2014.
3. Setbacks from abandoned well, pipeline and sour gas facilities shall be in compliance with provincial and federal requirements.
4. Please contact Alberta 1 Call at 1-800-242-3447 for utility locates at least two days prior to the commencement of construction. The development cannot encroach into or over a utility easement or right of way.
5. It is the responsibility of the developer to ensure that the applicant/landowner complies with any federal or provincial laws/legislation and that any required permits are obtained. All development will comply and be consistent with any license, permit, approval, authorization, regulation, or directive established by the Alberta Energy Regulator and Alberta Environment. The applicant/landowner must also comply with the conditions of any easement of covenant which affects the development.

**REASONS FOR THE DECISION**

- [21] The Appellants' request is for a garden suite with a variance to the maximum floor area. The proposed development is located in the AG – Agriculture district, and section 6.25(4)(b) of the Land Use Bylaw provides that the square footage cannot exceed 1,200 square feet. The application is for a modular home of 1,470 square feet. The Development Authority was required to refuse the requested variance of 22% as section 6.25(1)(i) of the Land Use Bylaw states that requests for variance must be refused by the Development Authority.
- [22] Further, section 6.25(1)(j) of the Land Use Bylaw states that a garden suite shall not be permitted on the same parcel containing a home-based business (level 2 or 3). A Home-Based Business Level 2 exists on the same parcel.
- [22] The Board finds that, in accordance with section 687(3)(d) of the *Municipal Government Act*, the Board may issue a development permit even though the proposed development does not comply with the Land Use Bylaw if, in the Board's opinion, the proposed development would not unduly interfere with the amenities of the neighbourhood or materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land, and the proposed development conforms with the use prescribed for that land in the Land Use Bylaw.
- [23] The Board did not receive submissions from adjacent landowners raising concerns and therefore determined that the proposed development would not unduly interfere with the amenities of the neighbourhood or materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land.
- [24] The Board finds that the proposed development meets the definition of a garden suite and therefore conforms with the use prescribed for that building in the Land Use Bylaw.
- [25] With respect to non-compliance due to the Home-Based Business Level 2, the Board relied on the evidence provided by the Appellants that the mobile food trailer conducts its operations off-site, and is therefore not a factor with respect to traffic or parking at the site.
- [26] For all of these reasons, the Board has decided to grant the appeal, revoke the decision of the Development Authority, and approve the development permit with the conditions noted above.

Dated at the Town of Morinville, in the Province of Alberta, this 5<sup>th</sup> day of May, 2020.

SUBDIVISION AND DEVELOPMENT APPEAL BOARD  
Sturgeon County



---

Julius Buski, Chair

# SUBDIVISION and DEVELOPMENT

APPEAL BOARD

Sturgeon County  
9613-100 Street, Morinville, AB T8R 1L9

*Please be advised that pursuant to Ministerial Order No. 036/20, the date by which an appeal of this Development Permit to the Subdivision and Development Appeal Board must be filed under section 686(1) of the Municipal Government Act is extended to May 11, 2020.*

*Pursuant to Section 688(1)(a) of the Municipal Government Act (MGA), an appeal of a decision of the Subdivision and Development Appeal Board lies with the Alberta Court of Appeal on a matter of law or jurisdiction. In accordance with Section 688(2)(a), if a decision is being considered, an application for permission to appeal must be filed and served within 30 days after the issuance of the decision and, notice of the application for permission must be provided to the Subdivision and Development Appeal Board and in accordance with Section 688(2)(b), any other persons that the judge directs.*

**APPENDIX "A"**  
**List of Submissions**

- Notice of Appeal;
- A copy of the development application with attachments;
- The Development Authority's written decision refusing the proposed development; and
- Development Support Services Report

---

Appeal File Number:	020-STU-005
Application Number:	305305-20-D0051
Appeal Against:	Development Authority of Sturgeon County
Appellants:	Ryan and Sandra Brenneis
Date and Location of Hearing:	April 21, 2020 Held via Teleconference
Date of Decision:	May 5, 2020
SDAB Members:	Chair Julius Buski Wayne Bokenfohr, Dave Kluthe, Allan Montpellier, Amanda Papadopoulos

---

### NOTICE OF DECISION

---

**IN THE MATTER OF** an appeal by Ryan and Sandra Brenneis against the Development Authority’s refusal of a development permit to construct an accessory building (fabric storage shelter) for personal use located at SE 8-55-26-W4 within Sturgeon County.

- [1] This is the decision of the Sturgeon County Subdivision and Development Appeal Board (the “SDAB” or “Board”) on an appeal filed with the SDAB pursuant to section 685 of the *Municipal Government Act*, R.S.A. 2000, c. M-26 (the “MGA” or “Act”).
- [2] In making this decision, the Board reviewed all the evidence presented and considered provisions of the *Municipal Government Act*, Sturgeon County’s Land Use Bylaw 1385/17 (the Land Use Bylaw or LUB) and Sturgeon County’s Municipal Development Plan (MDP), and any amendments thereto.
- [3] The following documents were received prior to the hearing and form part of the record:
- The Notice of Appeal, including the Appellant’s reasons for appeal;
  - A copy of the development permit application with attachments and the refused development permit;
  - The Development Officer’s written decision;
  - Development Services Report; and
  - The Appellants’ submission.

### PRELIMINARY MATTERS

- [4] There were no preliminary matters addressed at the hearing.

**PROCEDURAL MATTERS**

- [5] The appeal was filed on time and in accordance with section 686 of the MGA.
- [6] There were no objections to the proposed hearing process as outlined by the Chair. The Appellants agreed to proceed with the hearing via teleconference as permitted by the Meeting Procedures (COVID-19) Suppression Regulation.
- [7] There were no objections to the composition of the Board hearing the appeal.
- [8] The Board is satisfied that it has jurisdiction to deal with this matter.

**ISSUE**

- [9] The Appellants raised the following grounds of appeal:
- The shelter materials were purchased in 2017 and were within the allowable specifications of the Land Use Bylaw.
  - Changes to the Land Use Bylaw require the application for a variance.

**RECOMMENDATION OF THE DEVELOPMENT AUTHORITY**

Carla Williams, representative for the Development Authority, provided a presentation which outlined the Development Authority's refusal of development permit application 305305-20-D0051 for the following reasons:

- [10] Section 11.1.4 of the Land Use Bylaw states that the maximum floor area for an accessory building on an Agricultural – Residential parcel is 230 square metres (2,475 square feet). The accessory building is proposed to be 424 square metres (4,560 square feet). Therefore, the applicant is requesting a variance of 194 square metres (2,088 square feet), or 84%.
- [11] Section 2.8.6(a) of the Land Use Bylaw provides that the Development Authority may issue a variance up to 50%. Requests for variances in excess of 50% shall be refused in accordance with section 2.8.6(b) of the Land Use Bylaw.

**SUMMARY OF APPLICANTS'/APPELLANTS' POSITION**

- [12] The accessory building materials were purchased in 2017 and at the time of purchase met all specifications for compliance.
- [13] Two smaller buildings equaling in size to the proposed structure would have been permitted, but the Appellants but prefer the option of one larger building. One building will provide better wind tunneling and protection from blowing snow.

- [14] The building will be placed on the furthest back area of the property where the land is higher. The structure will be hidden behind a tree line and not visible from the highway. This location has a drainage ditch and culvert to the north where the water collects so there are no impacts to drainage.
- [15] Alberta Transportation has provided support in the form of a Roadside Development Permit and this application is based on that approval.
- [16] Inquiries with neighbours were conducted and letters of support were received, copies of which have been provided to the Board.
- [17] Should the Board decide to grant the appeal, the conditions recommended by the Development Officer are acceptable.

### DECISION

- [18] **The Board GRANTS the appeal, REVOKES the decision of the Development Authority made on March 5, 2020 to refuse development permit application 305305-20-D0051 and APPROVES the development permit with the following conditions:**
1. Prior to any construction occurring on site, a separate building permit shall be obtained and approved.
  2. Separate electrical, plumbing or gas permits be obtained as required.
  3. The accessory building shall be constructed in accordance with the approved site plan.
  4. The accessory building shall not be used as a dwelling.
  5. The accessory building shall not exceed 424 m<sup>2</sup> (4,560 ft<sup>2</sup>) in building area as approved.
  6. The accessory building shall not be used for purposes related to the operation of any commercial business and shall be used for personal use only. A home-based business is subject to separate development permit approval.
  7. Drainage measures undertaken as part of a development shall not negatively impact adjacent parcels by way of flooding or inundation through the redirection of surface water. In the event that the drainage of a development is found to affect adjacent parcels, all mitigating measures required to remedy the problem including drainage structures, drainage easements and retaining walls shall be at the sole expense of the landowner of the parcel where the mitigating measures are required.
  8. Exterior storage of good and materials associated with this approval shall be kept in a clean and orderly manner at all times and shall be screened from roads and adjacent residential uses to the satisfaction of the Development Authority. Any excavation, storage or piling up of materials required during the construction stage shall have all necessary safety measures

undertaken and the owner of such materials or excavation assumes full responsibility to ensure the situation does not prevail any longer than reasonably necessary to complete a particular stage of construction work.

9. If the development authorized by this permit is not commenced within 12 months from the date of its issuance, or is not carried out with reasonable diligence, the permit approval ceases and the permit is deemed to be void, unless an extension to this period has previously been granted by the Development Approving Authority.

**Advisory Notes:**

1. Minimum construction standards will conform to the requirements of the Alberta Building Code, 2014.
2. The applicant shall comply with the conditions of Roadside Development Permit No. RSDP027253 issued by Alberta Transportation.
3. Please contact Alberta 1 Call at 1-800-242-3447 for utility locates at least two days prior to the commencement of construction. The development cannot encroach into or over a utility easement or right of way.
4. It is the responsibility of the developer to ensure that the applicant/landowner complies with any federal or provincial laws/legislation and that any required permits are obtained. All development will comply and be consistent with any license, permit, approval, authorization, regulation, or directive established by the Alberta Energy Regulator and Alberta Environment. The applicant/landowner must also comply with the conditions of any easement of covenant which affects the development.

**REASONS FOR THE DECISION**

- [19] The Appellants' request is to construct an accessory building with a variance to the maximum floor area. Section 11.1.4 of the Land Use Bylaw states that the maximum floor area for an accessory building on an Agricultural – Residential parcel is 230 square metres (2,475 square feet). The accessory building is proposed to be 424 square metres (4,560 square feet). Therefore, the applicant is requesting a variance of 194 square metres (2,088 square feet), or 84%.
- [20] Section 2.8.6(a) of the Land Use Bylaw provides that the Development Authority may issue a variance up to 50%. Requests for variances in excess of 50% shall be refused in accordance with section 2.8.6(b) of the Land Use Bylaw.
- [21] The Board finds that, in accordance with section 687(3)(d) of the *Municipal Government Act*, the Board may issue a development permit even though the proposed development does not comply with the Land Use Bylaw if, in the Board's opinion, the proposed development would not unduly interfere with the amenities of the neighbourhood or materially interfere with or affect the use,

enjoyment or value of neighbouring parcels of land, and the proposed development conforms with the use prescribed for that land in the Land Use Bylaw.

- [22] The Board acknowledges the five letters from neighbouring property owners indicating support for the proposed development. Based on these letters of support, the Board finds that the proposed development would not unduly interfere with the amenities of the neighbourhood or materially interfere with or affect the use, enjoyment, or value of neighbouring parcels of land.
- [23] The Board finds that Alberta Transportation's approval of Roadside Development Permit No. RSDP027253 provides further support for the proposed development.
- [24] The Board finds that the proposed building meets the definition of an accessory building (fabric storage shelter) for personal use in the Land Use Bylaw.
- [25] For all of these reasons, the Board has decided to grant the appeal, revoke the decision of the Development Authority, and approve the development permit with the conditions noted above.

Dated at the Town of Morinville, in the Province of Alberta, this 5<sup>th</sup> day of May, 2020.

SUBDIVISION AND DEVELOPMENT APPEAL BOARD  
Sturgeon County



---

Julius Buski, Chair

*Please be advised that pursuant to Ministerial Order No. 036/20, the date by which an appeal of this Development Permit to the Subdivision and Development Appeal Board must be filed under section 686(1) of the Municipal Government Act is extended to May 11, 2020.*

*Pursuant to Section 688(1)(a) of the Municipal Government Act (MGA), an appeal of a decision of the Subdivision and Development Appeal Board lies with the Alberta Court of Appeal on a matter of law or jurisdiction. In accordance with Section 688(2)(a), if a decision is being considered, an application for permission to appeal must be filed and served within 30 days after the issuance of the decision and, notice of the application for permission must be provided to the Subdivision and Development Appeal Board and in accordance with Section 688(2)(b), any other persons that the judge directs.*

**APPENDIX "A"**  
**List of Submissions**

- Notice of Appeal;
- A copy of the development application with attachments;
- The Development Authority's written decision refusing the proposed development;
- Development Support Services Report; and
- Appellants' submission.