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Appeal File Numbers:	022-STU-002
Application Number:	305305-22-D0022
Appeal Against:	Development Authority of Sturgeon County
Appellant:	Steven and Susan Sharkey
Date and Location of Hearing:	March 29, 2022 Council Chambers and Through Electronic Communications
Date of Decision:	April 5, 2022
SDAB Members:	Chair Julius Buski, Lee Danchuk, Allan Montpellier, Amanda Papadopoulos

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### NOTICE OF DECISION

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**IN THE MATTER OF** an appeal by Steven and Susan Sharkey against the Development Authority's approval to operate a home-based business level 3 – landscape service at Plan 1622741; Block 1; Lot 4 on NW 27-53-26 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;
  - A copy of the development permit application with attachments;
  - The Development Officer's written decision;
  - Planning and Development Services Report;
  - The Appellants' written submission; and
  - The Applicants' written submission

#### PRELIMINARY MATTER

- [4] At the commencement of the hearing, the Appellants, Steven and Susan Sharkey, were not in attendance.
- [5] The Board confirmed with the Board Secretary that the Appellants were provided written notice of the hearing.

- [6] The Board did not receive a request from the Appellants for an adjournment of the hearing.
- [7] The Board delayed the commencement of the hearing by 25 minutes to allow additional time for the Appellants to appear.
- [8] In accordance with section 686(2) of the *Municipal Government Act*, the Board must hold an appeal hearing within 30 days after receipt of a notice of appeal, meaning that the Board must hear the appeal no later than March 30, 2022.
- [9] Upon being satisfied that appropriate notice was provided to the Appellants and that sufficient time was provided for them to attend, the Board proceeded with the hearing in the Appellants' absence.

#### **PROCEDURAL MATTERS**

- [10] The appeal was filed on time and in accordance with section 686 of the MGA.
- [11] There were no objections to the proposed hearing process as outlined by the Chair.
- [12] There were no objections to the composition of the Board hearing the appeal.
- [13] The Board is satisfied that it has jurisdiction to deal with this matter.

#### **ISSUES**

- [14] The Appellants raised the following grounds of appeal:
- The Appellants were assured the yard was being used for organizing until the shop project was complete. The yard is now an industrial site.
  - Noise is continuous from sunrise to sunset.
  - The metal on the site is an eye sore.
  - The yard is not screened as required.
  - This devalues neighbouring properties.

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

Carla Williams, representative for the Development Authority, provided a presentation which outlined the Development Authority's approval of development permit application 305305-22-D0022 for the following reasons:

1. The property is in the AG – Agriculture (Residential) District. The property is 1.0 hectares (2.50 acres) in area developed with a single detached dwelling and detached shop with lean-to addition.
2. The parcel will be used as the base for a landscaping services business. Small equipment and a pickup are to be stored and maintained on site. Materials and equipment are to be stored at the work sites. Customers are anticipated to attend the property three times a week and 1-2 non-resident employees will work or visit the property.

3. The site plan indicates an 8 foot by 10 foot exterior storage area to house materials is located behind the accessory building.
4. The business, as proposed, is consistent with the policies and regulations pertaining to a home-based business level 3.
5. Upon review of the application, the landowners were questioned about the state of the property. The Applicants responded indicating items (culverts and pipe) were removed from the back of the property and that the planting of over 1,100 trees around the perimeter of the property had occurred to provide privacy and a visual buffer.
6. The Development Authority supports the approval of the application with conditions based on the information submitted.

**SUMMARY OF APPLICANTS' POSITION**

- [15] The Applicants have lived in the County for over 28 years and operated a home-based business from their previous home.
- [16] In 2019, they sold their home and the business and moved to the location on Meadowview Drive. In the process of the move, there was not sufficient time to sell or dispose of all of the business materials, so items were taken to the new location.
- [17] Construction immediately began on the new home but with the COVID-19 pandemic in the spring of 2020 it became increasingly difficult to obtain building materials and continue with the development.
- [18] The remaining business materials have since been removed at a significant financial loss, and only one pile is remaining which will be disposed of in the spring when the ground thaws.
- [19] Hundreds of trees have been planted along the perimeter of the property to eventually create privacy.
- [20] Letters of support have been submitted from surrounding neighbours who attest to the site being quiet and clean.
- [21] A market evaluation from a local Realtor states that properties that have a home-based business in operation do not devalue surrounding properties as purported by the Appellants.

**ADJACENT LANDOWNER VERBAL SUBMISSION**

- [22] Roger Ayotte addressed the Board and spoke in opposition of the appeal. He has had conversations with the Applicants regarding the plan for their property and agrees that the Applicants have done everything they intended to do and is in favour of the home-based business.

## DECISION OF THE BOARD

**[23] The Board DENIES the appeal and UPHOLDS the decision of the Development Authority made on February 8, 2022 to approve development permit 305305-22-D0022 with the conditions imposed by the Development Officer.**

## REASONS FOR THE DECISION

- [24] The Appellants raised concern with noise, visual appearance, and devaluation of neighbouring properties. As the Appellants did not attend the hearing, the Board considered only the documentary evidence submitted. The evidence is limited to a photograph of the subject property and online advertising of the business. Based on this evidence, the Board was not persuaded that there are noise or visual issues with the property. Further, the Appellants did not provide evidence that this development devalues their property.
- [25] The Board received written submissions from the Pioneer Gun Club and several neighbouring property owners indicating that the Applicants have been respectful regarding noise and overall site appearance. The Board also received a verbal submission from one of these neighbours in support of the development.
- [26] The Board received a letter from a Realtor indicating that the operation of the home-based business would not depreciate the value of surrounding properties.
- [25] The Board received a submission from the Development Officer identifying permit conditions that would mitigate impact to neighbours, including regulating equipment and material storage, client traffic generation, the number of non-resident employees on site, the number of vehicles permitted on site, hours of operation, parking, and signage. The Board finds that these conditions will ensure that the development will 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.
- [27] For all of these reasons, the Board denies the appeal and upholds the decision of the Development Authority to approve the development permit with the conditions noted in the original approval.

Dated at the Town of Morinville, in the Province of Alberta, this 5<sup>th</sup> day of April, 2022.



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Julius Buski, Chair

*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**

- The Notice of Appeal;
- A copy of the development permit application with attachments;
- The Development Officer's written decision;
- Planning and Development Services Report;
- Appellants' written submission; and
- Applicants' written submission