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Appeal File Number: 021-STU-002  
Application Number: 305305-21-D0005  
Appeal Against: Development Authority of Sturgeon County  
Appellant: Gord Putnam  
Date and Location of Hearing: February 2, 2021  
Held via Videoconference  
Date of Decision: February 16, 2021  
SDAB Members: Chair Julius Buski, Lee Danchuk, Mark Garrett, Alanna Hnatiw, Amanda Papadopolous

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### NOTICE OF DECISION

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**IN THE MATTER OF** an appeal by Gord Putnam of the Development Authority’s refusal of a development permit for a variance to the front yard setback at SE 2-56-24-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 sections 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; and
  - The Appellant’s 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.
- [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.

#### **ISSUES**

- [9] The Appellant raised the following grounds of appeal:
- A variance should be granted for an existing home which has been in its current location for over sixty years.

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

Yvonne Bilodeau, representative for the Development Authority, provided a presentation which included a recommendation that development permit application 305305-21-D0005 be refused for the following reasons:

- [10] The dwelling is inconsistent with Land Use Bylaw regulation 11.1.4 as it is situated 5.7 meters (18.7 feet) from the front yard property line and therefore a variance of 29.3 meters (96 feet) or 84% is required.
- [11] The maximum variance that may be approved by the Development Authority is 50% and therefore the application was refused.
- [12] Condition # 4 of the subdivision approval states that, pursuant to section 662(1) of the MGA, as required by Sturgeon County Engineering Services, a 5-metre-wide area parallel and adjacent to the boundary of the Remnant and Proposed Lot and Range Road 241, as well as a 10-metre-wide area parallel and adjacent to the boundary of the Remnant Lot and Township Road 560 shall be acquired by Sturgeon County in the future via the terms and conditions of a land acquisition agreement.
- [13] The County's Engineering Services Department has provided confirmation that the Capital Plans for Roads until the year 2026 do not include Range Road 241 north of Township Road 560.
- [14] The close proximity of the dwelling to the road would need to be considered only at the time when improvements to the road are required, regardless of the subdivision and variance applications.
- [15] The SDAB has jurisdiction to grant a variance to the front yard setback to allow the dwelling to remain as built.

#### **SUMMARY OF APPELLANT'S POSITION**

- [16] In December 2020, an application for the subdivision of the parcel was approved with conditions.

- [17] There has been compliance on other development permits and all outstanding permits fees have been applied for and paid.
- [18] The structure does not unduly interfere with or materially affect the surrounding neighbours or properties.
- [19] Neighbours have been notified and spoken to with no objections.
- [20] The property was built before development permits were required and Donald and Richard Bland have lived on and farmed the land their entire lives.

## DECISION

**[21] The Board GRANTS the appeal, REVOKES the decision of the Development Authority made on January 13, 2021 to refuse development permit application 305305-21-D0005, and APPROVES the development permit with the following conditions:**

1. The dwelling is approved to remain 5.7 meters from the front property line as per the site plan provided by Navland Geomatics Inc.

Front yard: 5.7 meters (18.7 feet) Variance of 29.3 meters (96 feet) or 84 % granted from the required 35 meters (114.7 feet).

2. The applicant/landowner shall adhere to the documents registered on title. 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 form the owner or licensee to which the easement or right-of-way has been granted.

## REASONS FOR THE DECISION

- [22] The existing structure was constructed in 1959, before development permits were required. In December 2020, the Municipal Planning Commission approved a subdivision of this homestead and the Applicant was required to obtain all necessary permits to comply with the Land Use Bylaw.
- [23] The Appellant's request is for a variance of 84% to the front yard setback. In accordance with section 2.8.6(b) of the Land Use Bylaw, the Development Authority may grant a variance of 50% in the AG – Agriculture District and a variance request in excess of what has been prescribed shall be refused by the Development Authority.
- [24] 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.

- [25] The fact that adjacent landowners have not expressed objection satisfies the Board that the existing dwelling does 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.
- [26] The Board finds that the proposed development conforms with the use prescribed in the Land Use Bylaw, which is Farm Help Accommodation.
- [27] 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 16<sup>th</sup> day of February 2021.

SUBDIVISION AND DEVELOPMENT APPEAL BOARD  
Sturgeon County



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Julius Buski, Chair

*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**

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