
Appeal File Number:	021-STU-004
Application Number:	305305-21-D0041
Appeal Against:	Development Authority of Sturgeon County
Appellant:	Gord Putnam
Date and Location of Hearing:	April 6, 2021 Held via Videoconference
Date of Decision:	April 20, 2021
SDAB Members:	Chair Julius Buski, Lee Danchuk, Mark Garrett, Alanna Hnatiw, Amanda Papadopolous

NOTICE OF DECISION

IN THE MATTER OF an appeal by Gord Putnam of the Development Authority's refusal to leave an existing accessory building (barn) as built and to leave a shipping container as sited at Plan 8020637; Block 2; Lot 9 Woodridge 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:
- Although the accessory building and shipping container do not meet the setback requirements of the Land Use Bylaw, they do not affect the value, use, or enjoyment of neighbouring properties.

RECOMMENDATION OF THE DEVELOPMENT AUTHORITY

Carla Williams, representative for the Development Authority, provided a presentation which included the following information:

- [10] The accessory building (barn) is located 1.10 metres from the side property line. Section 12.1.4 of the Land Use Bylaw, R1 – Country Residential District, Development Regulations, states that the minimum side yard setback is 3 metres (9.8 feet). Therefore, a variance of 1.9 metres (6.2 feet) or 63% is required to leave the structure as built.
- [11] The shipping container (12.1 metres x 2.48 metres) is located 0.95 metres from the side property line. Section 6.27.4, of the Land Use Bylaw, Shipping Containers, states that all shipping containers shall meet the minimum setbacks for accessory buildings of the applicable district. In accordance with Section 12.1.4, R1 – Country Residential District, the minimum side yard setback is 3 metres (9.8 feet). Therefore, a variance of 2.05 metres (6.7 feet) or 68% is required to leave the shipping container as sited.
- [12] Section 2.8.6(b) of the Land Use Bylaw states that variances for the districts in excess than what is prescribed shall be refused by the Development Authority. The maximum percentage of variance that may be granted by the Development Authority in the R1 – Country Residential District is 40%. The required variances (63% and 68%) exceed the maximum percentage that may be granted and therefore the two existing structures were deemed refused.

SUMMARY OF APPELLANT'S POSITION

- [13] The barn was built by the property owners in 2009. It is within the property boundary line but does not meet the setback requirements of the Land Use Bylaw. The shipping container has been in the same location since 2007.
- [14] The owners were unaware there was an issue with the placement of the structures until the Real Property Report revealed the issue through the sale of the home.

- [15] The structures are not encroaching on neighbouring properties nor do they affect the value, use, or enjoyment of the neighbouring land.
- [16] There is a screening of mature trees alongside the property which block the sight line of the structures.

DECISION

[17] The Board GRANTS the appeal, REVOKES the decision of the Development Authority made on March 12, 2021 to refuse development permit application 305305-21-D0041, and APPROVES the development permit with the following conditions:

1. That the existing accessory building “barn” and shipping container be approved to remain as shown on the Real Property Report, dated March 11, 2021, signed by Piotr Strozyk, Alberta Land Surveyor.

REASONS FOR THE DECISION

- [18] The Appellant’s request is to leave an existing accessory building (barn) as built and to leave a shipping container as sited. In accordance with section 2.8.6(b) of the Land Use Bylaw the maximum percentage of variance that may be granted by the Development Authority in the R1 – Country Residential District is 40%. A variance request in excess of what has been prescribed shall be refused by the Development Authority. The required variances (63% and 68%) exceed the maximum percentage that may be granted.
- [19] 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.
- [20] The Board did not receive submissions from neighbouring property owners or evidence from the Development Officer suggesting that the proposed development would unduly interfere with the amenities of the neighbourhood or materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land.
- [21] The Board finds in evidence presented that the shipping container has been in the same location since 2007 and the barn was constructed in 2009. No complaints have been received regarding either of these structures.
- [22] For all of these reasons, the Board has decided to grant the appeal and revoke the decision of the Development Authority to refuse to the development permit.

Dated at the Town of Morinville, in the Province of Alberta, this 20th day of April 2021.

SUBDIVISION AND DEVELOPMENT APPEAL BOARD
Sturgeon County



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.