
Appeal File Number:	020-STU-001
Application Number:	305305-20-D0022
Appeal Against:	Development Authority of Sturgeon County
Applicant:	North Star Farms Ltd. represented by Bob van Bruggen
Appellant:	North Star Farms Ltd. represented by Bob van Bruggen
Date and Location of Hearing:	March 17, 2020 Sturgeon County Council Chambers – 9613-100 Street, Morinville, AB
Date of Decision:	March 27, 2020
SDAB Members:	Chair Julius Buski Wayne Bokenfohr, Mark Garrett, Allan Montpellier

NOTICE OF DECISION

IN THE MATTER OF an appeal by North Star Farms of the Development Authority’s refusal of a development permit to construct an accessory building for a home based business, 4,800 square feet with a 94% variance to the size on Plan 9120503; A; NE 34-54-25-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:
- A copy of the development permit application with attachments, proposed plans and the refused development permit;
 - The Development Officer’s written decision;
 - Development Services Report; and
 - The Notice of Appeal, including the Appellant’s reasons for appeal.

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.

ISSUE

- [9] The Applicant/Appellant raised the following grounds of appeal:
 - The current building is no longer suitable to the business. The structure has a low ceiling which does not allow for proper ventilation of the ink fumes and dust. The new building will be environmentally safe.

RECOMMENDATION OF THE DEVELOPMENT AUTHORITY

Yvonne Bilodeau, representative for the Development Authority, provided a presentation which included a recommendation that development permit application 305305-20-D0022 be refused for the following reasons:

- [10] Section 11.1.4 of the Land Use Bylaw states that the maximum floor area of an accessory building on an AG Residential parcel is 230 square meters (2,475 square feet). A variance is requested to allow a 445 square meter (4,800 square foot) accessory building. Therefore, the requested variance is 94%.
- [11] Section 2.8.6(b) of the Land Use Bylaw states that variances for the districts in excess of 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 Agriculture District is 50%.

SUMMARY OF APPLICANT/APELLANT'S POSITION

- [12] Currently, the home based business of a printing shop is operating out of a hog barn that is not suitable for the business use.
- [13] The current building is old with a low ceiling and does not allow for proper ventilation of ink fumes and dust.
- [14] The proposed building will allow for the proper ventilation and heated floors. It will be suitable and environmentally safe.

- [15] Upon review of the recommended conditions provided by the Development Officer and listed on pages 17-19 of the agenda package, should the Board choose to approve a variance, the Appellant advised that he is in agreement with the conditions with the exception of proposed condition #1 requiring the demolition of the existing barn.

DECISION

- [16] **The Board GRANTS the appeal, REVOKES the decision of the Development Authority made on February 12, 2020 to refuse development permit application 305305-20-D0022, 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 following minimum accessory building setbacks to property lines be adhered to:
Front yard: 20m (65.6ft)
Side and rear yard: 3m (9.8ft)
4. The accessory building shall be set back a minimum 1.9m (6.2ft) from the dwelling.
5. The accessory building shall not be used as a dwelling.
6. The quality of the exterior treatment and design of the accessory building shall be compatible with other buildings in the vicinity, unless the accessory building is intended to set an improved standard of design, character or appearance. The exterior finish of the accessory building shall be completed within two years of the date of issuance of the development permit.
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. Please be advised an approved building permit is required prior to any construction occurring on site. Construction occurring prior to the issuance of a building permit is subject to a double fee penalty. Early excavation, prior to building permit approval, can result in standing water, potential

- for freezing and can cause safety hazards for neighbouring properties if the area is open for longer than necessary.
2. Minimum construction standards will conform to the requirements of the Alberta Building Code, 2014.
 3. The applicant shall comply with the conditions of Roadside Development Permit No. RSDP028485 issued by Alberta Transportation.
 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

- [17] The Appellant's request is for a variance of 94%, which equates to nearly double the amount of floor area prescribed for this district, or an additional 1,925 square feet of floor area. 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.
- [18] 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.
- [19] The Appellant did not provide documentary evidence and therefore the Board relied on his oral evidence and photos of the subject property and neighbourhood provided by the Development Officer.
- [20] 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.
- [21] The Board finds that the proposed development conforms with the use prescribed in the Land Use Bylaw (an accessory building).
- [22] 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 27th day of March, 2020.

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 direct.

APPENDIX "A"
List of Submissions

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

Appeal File Number:	020-STU-002
Application Number:	305305-20-D0025
Appeal Against:	Development Authority of Sturgeon County
Appellant:	Peter Gadoury
Date and Location of Hearing:	March 17, 2020 Sturgeon County Council Chambers – 9613-100 Street, Morinville, AB
Date of Decision:	March 27, 2020
SDAB Members:	Chair Julius Buski Wayne Bokenfohr, Mark Garrett, Allan Montpellier

NOTICE OF DECISION

IN THE MATTER OF an appeal by Peter Gadoury against the Development Authority’s refusal of a development permit to construct a garden suite, 1,680 square feet with a 40% variance to the size on Plan 0021123; 1; NE 25-54-1-W5 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:
- A copy of the development permit application with attachments, proposed plans and the refused development permit;
 - The Development Officer’s written decision;
 - Development Services Report; and
 - The Notice of Appeal, including the Appellant’s reasons for appeal.

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.

ISSUE

- [9] The Applicant/Appellant raised the following grounds of appeal:
 - The allowable size of a garden suite is not large enough to accommodate his family. The size requested fits for the family, is complementary to the existing structure, and should not impede on the neighbours or cause any issues.

RECOMMENDATION OF THE DEVELOPMENT AUTHORITY

Carla Williams, representative for the Development Authority, provided a presentation which included a recommendation that development permit application 305305-20-D0025 be refused for the following reasons:

- [10] Section 6.25.4(b) of Land Use Bylaw 1385/17, Garden Suites, states that the maximum floor area shall not exceed 111.5 square meters (1,200 square feet) in the Agriculture (AG) and Country Residential (R1) districts. The parcel is districted as AG and the total floor area of the proposed Garden Suite is 156 square meters (1,680 square feet).
- [11] Section 6.25.1(i) of Land Use Bylaw 1385/17, 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 44.6 square meters (480 square feet) in floor area, or 40%, is requested as part of the application and must be refused.

SUMMARY OF APPLICANT/APELLANT'S POSITION

- [12] The current home is not large enough to accommodate visiting family who come to town to assist with aging parents and to visit over the holidays.
- [13] A garden suite would allow for visitors to be comfortable and extend their stays if necessary.
- [14] Smaller sizes of garden suites would not be enough space and would not complement the existing structure.
- [15] The proposed suite offers the size, functionality and fit for the family and is aesthetically pleasing to the current home. An additional 400 square feet should not cause issue with the neighbours.

DECISION

[16] The Board GRANTS the appeal, REVOKES the decision of the Development Authority made on February 12, 2020 to refuse development permit application 305305-20-D0025, 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 maximum parcel coverage shall not exceed 15%.
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 a 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. 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) shall not be permitted on the same parcel containing a suite.
 3. Minimum construction standards will conform to the requirements of the Alberta Building Code, 2014.
 4. The applicant shall comply with the conditions of Roadside Development Permit No. RSDPO28759 issued by Alberta Transportation.
 5. Setbacks from abandoned well, pipeline and sour gas facilities shall be in compliance with provincial and federal requirements.
 6. 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.
 7. 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

- [17] The Appellant's request is for a variance of 40%, or an additional 480 square feet of floor area. In accordance with section 2.8. of the Land Use Bylaw, variances to maximum floor area shall be refused by the Development Authority.
- [18] 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.
- [19] The Appellant did not provide documentary evidence and therefore the Board relied on his oral evidence and photos of the subject property and neighbourhood provided by the Development Officer.
- [20] 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.
- [21] The Board finds that the proposed development conforms with the use prescribed in the Land Use Bylaw (garden suite).
- [22] 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 27th day of March, 2020.

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

- Notice of Appeal;
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- Development Support Services Report.