
Appeal File Number:	023-STU-015
Application Number:	305305-23-D0175
Appeal Against:	Development Authority of Sturgeon County
Applicant/Appellant:	Donna Tregidgo and Bert McEwen
Date and Location of Hearing:	August 1, 2023 Council Chambers and Through Electronic Communications
Date of Decision:	August 16, 2023
SDAB Members:	Julius Buski, Neal Comeau, Lee Danchuk, Amanda Papadopoulos, and Lili Terry

NOTICE OF DECISION

IN THE MATTER OF an appeal by Donna Tregidgo and Bert McEwen against the Development Authority's approval to leave an existing accessory building as built (office trailer for a home-based business) at 27414 Township Road 544, Plan 0621672, Block 1, Lot 1 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 and 686 of the *Municipal Government Act*, RSA 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, and Sturgeon County's Municipal Development Plan (MDP), and any amendments thereto.
- [3] The following documents were received prior to the hearing and for part of the record:
1. The Notice of Appeal;
 2. A copy of the development permit application with attachments;
 3. The Development Authority's written decision; and
 4. Planning & Development Services Report.

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 Appellants raised the following grounds of appeal:

- a. This is an industrial sized operation, not a home-based business and belongs in an industrial park.
- b. Residents are impacted by constant excess noise and disruption of daily life.
- c. The office trailer manages large exterior manufacturing operations and does not meet the intent of a home-based business.

RECOMMENDATION OF THE DEVELOPMENT AUTHORITY

[10] Yvonne Bilodeau, representative of the Development Authority, provided a presentation which outlined the Development Authority's approval of Development Permit 305305-23-D0175. In summary:

1. The property is 20.4 hectares in size and is zoned AG- Agriculture, with the bulk of the property generally used for agricultural purposes. The property is adjacent to Hansen's multi-parcels subdivision.
2. Currently, the property has a mobile home and a shed with a Development Permit being issued for a single detached dwelling.
3. A Development Permit was issued on September 10, 2020 to allow a home-based business level 3 – Carpentry Service.
4. In 2022, two Stop Orders and a cancellation of the Development Permit were issued due to non-compliance of conditions of the permit and complaints received. Complaints received cited excessive employees and employee vehicles, number of commercial vehicles, noise, and number of sea cans.
5. The Development Authority determined that the activity on the land was not conducive to a carpentry business but rather an industrial use in retrofitting shipping containers. The landowners filed an appeal of the Stop Orders and cancellation of the Development Permit to the Subdivision and Development Appeal Board. The Board determined that they did not have the jurisdiction to hear the appeal of the Stop Order issued on April 11, 2022 and upholds the Stop Order issued on May 20, 2022 and varied the order as follows:

- References to the cancellation of Development Permit 305305-20-D0183 are struck.
- References of non-compliance related to misrepresentation of the business, deviation from the approved drawings, and absence of development and building permits for the three accessory buildings and trailer(s) (Violations 2, 3, and 4) are struck.
- Directions to relocate the business to lands that have an Industrial Use zoning, apply for developing permits for the existing business, and apply for development and building permits for all accessory buildings (Directions 1 and 2) are struck.

6. A site inspection was performed with the owners on March 23, 2023. The site was cleared of all business use shipping containers that were stored on the property and the site was organized to the satisfaction of the Development Authority. It was determined that permits would be required for the office trailer and any of the accessory buildings used for the business.
7. A development permit application was received and issued for the existing office trailer and a Farm Building Declaration was received for all other buildings as the landowners claim they are for farm use and not for business use.
8. A home-based business is a discretionary use in the LUB, and the Development Authority's approval was appealed by an adjacent landowner citing excessive noise and disruption to the neighbourhood.

SUMMARY OF APPELLANTS' POSITION

[11] The Appellants did not attend the hearing; however, they provided reasons why the appeal should be granted which included:

1. This is an industrial sized operation, not a home-based business and belongs in an industrial park.
2. Residents are impacted by constant excess noise and disruption of daily life.
3. The office trailer manages large exterior manufacturing operations and does not meet the intent of a home-based business.

SUMMARY OF APPLICANT'S POSITION

[12] The Applicant, Marley Broda, attended the meeting virtually and provided reasons why the appeal should be denied which included:

4. The property was inspected in March 2023, and she has worked closely with the County to obtain compliance. The yard has been cleaned up and more containers have been removed since the site visit. She is operating in line with the permit and the plan that was agreed to.
5. The building is needed as there is no room in the dwelling for a home office.
6. One building on the property for office use is not considered excessive. Business operations will not increase, the business will not grow, and the approval will not affect manufacturing operations.
7. The complaint filed was not related to the accessory building.
8. There have not been any container manufacturing orders since 2022 and any noise coming from the property is related to the farming operation and livestock.
9. There are not any employees working for 12 – 14 hours per day nor do they own the trucks and semi-trailers seen driving around the subdivision.

DECISION

[13] **The Board DENIES the appeal, UPHOLDS the decision of the Development Authority made on June 21, 2023, and APPROVES development permit application 305305-23-D0175 with the following terms and conditions:**

1. The approval is to leave an existing office trailer, accessory to the home-based business, to remain as shown on the site plan.

2. A separate building permit shall be obtained. Minimum construction standards will conform to the requirements of the current Alberta Building Code.
3. The accessory building shall not be used as a dwelling.
4. 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.

REASONS FOR THE DECISION

- [14] The subject property is in the AG – Agriculture district. The Appellants are appealing the Development Authority’s approval to leave the existing accessory building (office trailer) as built.
- [15] The Board heard that the Development Authority previously had concerns with compliance on this site, resulting in the imposition of stop orders and cancellation of a development permit. On July 19, 2022, this Board determined that the Applicant was operating a carpentry business and that the Development Authority did not follow appropriate processes to determine which structures on the property were related to the carpentry business and which were related to the extensive agricultural operation occurring on the property.
- [16] The Development Authority submitted that a site inspection occurred March 23, 2023, which found that the site was cleared of all business use shipping containers that were stored on the property and the site was organized to the satisfaction of the Development Authority. Farm Building Declarations were received for all other buildings.
- [17] The Development Authority submitted that the accessory building meets the definition and all regulations pursuant to the LUB and therefore the development permit was approved.
- [18] The Board considered the reasons for appeal as submitted by the Appellants and 5 letters of opposition from other property owners. The submissions raised concerns of noise, increased traffic, public safety, reduced property values of adjacent homes, damage to road infrastructure, and compatibility of the carpentry business with the surrounding rural residential community.
- [19] On July 19, 2022, this Board determined that the business occurring on the property is carpentry business and legitimately operating under that permit. The Development Authority has taken steps to ensure compliance with that permit, and the impact of the carpentry business overall is not the matter before the Board, as it is assumed that the Development Authority will continue to monitor the site for compliance with the approved carpentry business permit. The matter before the Board is whether to approve the existing office trailer.
- [20] The Board finds that the Appellant and other persons making submissions in opposition to the accessory building have not demonstrated how the approval of the office trailer would unduly interfere with the amenities of the neighbourhood or materially interfere or affect the use, enjoyment, or value of neighbouring parcels of land. Issues of noise, increased traffic, public safety, reduced property values of adjacent homes, and damage to road infrastructure would

be the result of the carpentry business overall and not the accessory building, which is the development that the Board is considering.

[21] For all of these reasons, the Board denies the appeal and upholds the decision of the Development Authority to leave the accessory building as built subject to the conditions noted above.

Dated at the Town of Morinville, in the Province of Alberta, this 16th day of August, 2023.

A handwritten signature in blue ink, appearing to read "J. Buski".

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 & Development Services Report