
Appeal File Numbers: 022-STU-015
Application Number: 305305-22-D0299
Appeal Against: Development Authority of Sturgeon County
Appellant: Morinville RV Park Represented by Adele Maruschak
Date and Location of Hearing: November 8, 2022
Council Chambers and Through Electronic Communications
Date of Decision: November 22, 2022
SDAB Members: Chair Julius Buski, Lee Danchuk, Allan Montpellier, Lili Terry

NOTICE OF DECISION

IN THE MATTER OF an appeal by Morinville RV Park against the Development Authority's refusal to leave an accessory building (Administration building) as built with a variance to the flanking front yard set back at Pt NW 33-55-25-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 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 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; and
 - Planning and 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.

ISSUES

[9] The Appellant raised the following grounds of appeal:

- The Administration Building has been in place for over 25 years.
- It would be difficult to move the Administration Building because of the underground wiring for power, phones, and security gate.

RECOMMENDATION OF THE DEVELOPMENT AUTHORITY

Yvonne Bilodeau, representative for the Development Authority, provided a presentation which outlined the Development Authority's refusal of development permit application 305305-22-D0299. In summary:

1. The property is in the REC – Recreational District. The parcel is 21.61 hectares (53.39 acres) in area. The most northerly portion of the property is leased to the Morinville RV Park, and the remainder is under the management of the Town of Morinville. The area of the parcel under lease is developed with a campground, recreational vehicle storage facility, accessory buildings, and an outdoor recreational facility (playground and sports courts).
2. The Development Authority was aware of the non-conforming uses, however, could not accept development applications as the uses were not listed under AG-Agricultural zoning.
3. During the rewrite of the current Land Use Bylaw, amendments corrected the zoning to the lands as Recreational.
4. Morinville RV Park inquired about an expansion which brought the issue of non-conformance to the forefront once again.
5. Sturgeon County, the Town of Morinville, and Morinville RV Park have been actively working together to achieve conformance since 2019.
6. The Administration Building does not meet the Land Use Bylaw requirement with respect to the front flanking yard set back. The variance required to leave the structure as built exceeds what may be granted by the Development Authority. The application was refused for the following reasons:
 - Section 15.7.4 of the Land Use Bylaw states that the minimum flanking front yard setback is 6 metres (19.7 feet) in the REC – Recreational District.

Actual front flanking – 3.59 metres (11.8 feet)
Variance required – 2.41 metres (7.9 feet) or 40%
7. Pursuant to section 2.8.6 of the Land Use Bylaw, the maximum variance that may be granted by the Development Authority in the REC – Recreational district is 25%. Variances for the district in excess of what is prescribed shall be refused by the Development Authority.

SUMMARY OF APPELLANT'S POSITION

[10] The portion of the Administration Building that is in question is at the back north corner of the property.

- [11] The fence is parallel to the road and the building is parallel to the fence and it has been this way for over 30 years.
- [12] It would be very costly to move the Administration Building and require the park to be shut down for a time to allow for trades people to relocate all the services.

DECISION OF THE BOARD

- [13] **The Board GRANTS the appeal and REVOKES the decision of the Development Authority made on October 7, 2022, to refuse development permit application 305305-22-D0299, and approves the development permit with the following conditions:**

1. A variance of 40% is granted from the minimum flanking front yard setback of 6 metres (19.7 feet) to 3.59 metres (11.8 feet).

REASONS FOR THE DECISION

- [14] The accessory building (RV Park Administration Building) in question is located on lands districted REC – Recreational.
- [15] The Appellant’s request is to leave the accessory building as built with a variance to the flanking front yard setback. Section 15.7.4 of the Land Use Bylaw states that the minimum flanking front yard setback for an accessory building in this district is 6 metres. Section 2.8.6 of the Land Use Bylaw states that the maximum variance that may be granted by the Development Authority in this district is 25% and that variances for the districts in excess than what is prescribed shall be refused by the Development Authority. The requested variance of 40% to the flanking front yard setback exceeds the maximum percentage that may be granted by the Development Authority, and therefore the application was refused and appealed to the Subdivision and Development Appeal Board.
- [16] 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.
- [17] The Board received evidence from the Development Authority that the adjacent property is in an industrial park. Unlike in residential neighbourhoods where variances to setbacks may affect the use, enjoyment, or value of neighbouring residential properties, the impact of a variance to a non-residential neighbouring property is insignificant.
- [18] The Board received no submissions stating opposition to the proposed variance. Therefore, the Board is satisfied 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.

SUBDIVISION and DEVELOPMENT

APPEAL BOARD

Sturgeon County
9613-100 Street, Morinville, AB T8R 1L9

- [19] The Board finds that the proposed development conforms with the use prescribed in the Land Use Bylaw being an accessory building within the REC – Recreational District.
- [20] For all of these reasons, the Board grants the appeal with the condition noted and revokes the decision of the Development Authority to refuse the development permit.

Dated at the Town of Morinville, in the Province of Alberta, this 22nd day of November 2022.



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; and
- Planning and Development Services Report;