
Appeal File Number:	024-STU-014
Application Number:	305305-24-D0231
Appeal Against:	Development Authority of Sturgeon County
Appellants:	Doug & Lorraine Demers
Date and Location of Hearing:	October 1, 2024 Council Chambers and Through Electronic Communications
Date of Decision:	October 15, 2024
SDAB Members:	Julius Buski (Chair), Lee Danchuk, Amanda Papadopoulos, Lili Terry, and Kristin Toms

NOTICE OF DECISION

IN THE MATTER OF an appeal by Doug and Lorraine Demers against the Development Authority’s refusal to approve an application to construct an Accessory Building (Detached Garage 28ft x 28ft) for personal use prior to Principal Use/Building at Plan 1221682; Block G; Lot 23 Cardiff Pittsburg, 274 25100 Township Road 554 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 (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:
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 this 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 Appellant raised the following grounds of appeal:

- Although the proposed development does not conform to the Land Use Bylaw, the Board should exercise discretion in approving the development permit as 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 the neighbouring properties.

RECOMMENDATION OF THE DEVELOPMENT AUTHORITY

[10] Carla Williams, representative of the Development Authority, provided a presentation which outlined the Development Authority's refusal of Development Permit 305305-24-D0231. In summary:

1. The property is located in the R4 – Hamlet Serviced District and is 0.23 acres of vacant land. The property has an approach, an abandoned gas line that would not affect future development, and is currently used by the property owner for gardening. A recent site inspection indicates that the property is well kept.
2. The Development Authority received an application to construct an Accessory Building (Detached Garage 28 feet x 28 feet). The development permit was refused as section 6.1.4 of the Land Use Bylaw states except as otherwise provided for in this section, for any district, an accessory building or use is not permitted on a parcel without a principal building or use being previously developed on the parcel.
3. Section 6.1.5 of the Land Use Bylaw states that, notwithstanding subsection 6.1.4 and on a vacant parcel, the Development Authority may accept a development permit for an accessory building concurrent with a development permit application for a principal building, subject to both buildings being constructed within the specified time frame approved by the development permit. The applicants have not indicated intent to develop the principal building within a specified time frame.
4. The intent of the R4 district is to accommodate uses in a residential context and the principal use being for residential purposes (dwelling) constructed prior to any other uses being allowed.
5. Permitting an accessory building to be constructed prior to a dwelling allows residential parcels to be primarily used for storage purposes. Storage could be for personal or potentially commercial purposes if the property is sold. The parcel could also be perceived to be used for outdoor storage.

6. The proposed garage conforms with the Land Use Bylaw with respect to setbacks, floor area, and height.
7. Should the Board grant the appeal and approve a development permit to construct the garage, Administration recommends the inclusion of conditions to mitigate potential impacts on adjacent properties.

SUMMARY OF APPELLANTS' POSITION

- [11] The Appellants, Doug and Lorraine Demers, attended the hearing and submitted that:
1. They purchased the property with the intention of building a home in the future. Currently, they frequently visit the property to garden, perform yardwork, and escape the city.
 2. They wish to begin building on the parcel in a phased approach, first by constructing a detached garage for storage on the property while leaving ample building space to construct a home in a future phase.
 3. They submit that their request is in alignment with section 2.8.2(b)(i) of Sturgeon County's Land Use Bylaw which indicates that the Development Authority has the discretion to approve an application for development that does not comply with the bylaw if in their 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 the neighbouring properties.
 4. They provided letters of support for the proposed development from seven neighbouring property owners which included statements indicating no opposition to the development.
 5. They indicated that should their plans change and they opt to sell the property, they would be willing to make it a condition of sale that the next owner follow through with the intention to build a principal dwelling.

DECISION

- [12] **The Board DENIES the appeal and UPHOLDS the decision of the Development Authority made on September 6, 2024 to refuse development permit application 305305-24-D0231.**

REASONS FOR THE DECISION

- [13] The subject property is located in the R4 – Hamlet Serviced District. The application is to construct an Accessory Building (Detached Garage 28ft x 28ft) for personal use prior to Principal Use/Building.
- [14] The Board heard that the intent of the R4 district is to accommodate uses in a residential context and the principal use is for residential purposes (dwelling) constructed prior to any other uses being allowed.
- [15] Section 6.1.4 of the Land Use Bylaw states except as otherwise provided for in this section, for any district, an accessory building or use is not permitted on a parcel without a principal building or use being previously developed on the parcel. Section 6.1.5 states that, notwithstanding subsection 6.1.4 and on a vacant parcel, the Development Authority may accept a development permit for an accessory building concurrent with a development permit application for a principal building, subject to both buildings being constructed

within the specified time frame approved by the development permit.

- [16] The Development Authority submitted that the Appellants do not have a specific plan or time frame to develop the principal dwelling, and therefore the development permit for a detached garage was refused as it would not meet the definition of an accessory building.
- [17] The Development Authority submitted that, although the proposed detached garage meets the Land Use Bylaw requirements in terms of setbacks, floor area, and height and that there is discretion to vary Land Use Bylaw requirements in specific instances, as the development permit follows the property, there is risk that the current or future landowners could use the property for personal or commercial storage, which would be inconsistent with the intent of the R4 district and potentially negatively impact the neighbourhood.
- [18] The Board finds that, based on the photographs and letters of support from adjacent landowners, the property is well maintained based on the efforts of the current landowners and their positive interactions with others in the community. However, the Board must consider its decision based on planning merits, particularly in consideration that any approved development would run with the land. The Board finds it necessary to apply the conditions of the Land Use Bylaw to meet the intent of the R4 district, being the development of residential homes. The Board is persuaded that approval of a garage without certainty as to the timeline of construction of a principal dwelling creates planning uncertainty and risks the garage being used exclusively for storage purposes, inconsistent with the intention of the Land Use Bylaw.
- [19] The Appellant submitted that the Board could consider approving the development permit with a caveat that any future landowner be required to develop a principal dwelling on the parcel. The Board finds such an approach to be impractical and potentially difficult for the Development Authority to enforce in the future.
- [20] For all of these reasons, the Board denies the appeal and upholds the decision of the Development Authority to refuse development permit application 305305-24-D0231.

Dated at the Town of Morinville, in the Province of Alberta, this 15th day of October, 2024.



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
- Appellants' submission (photographs and letters of support)