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Appeal File Number:	024-STU-013
Application Number:	305305-24-D0197
Appeal Against:	Development Authority of Sturgeon County
Appellant:	Melinda MacDonnell
Date and Location of Hearing:	September 17, 2024 Council Chambers and Through Electronic Communications
Date of Decision:	October 2, 2024
SDAB Members:	Julius Buski (Chair), Lee Danchuk, Don Rigney, and Kristin Toms

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### NOTICE OF DECISION

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**IN THE MATTER OF** an appeal by Melinda MacDonnell against the Development Authority's approval to expand a Recreational Vehicle Storage Facility to accommodate an additional 167 stalls at SE-14-55-26-W4, 26106 Township Road 552 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 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 Authority's written decision;
  - Planning & Development Services Report;
  - Appellant's written submission;
  - Applicant's written submission; and
  - Adjacent landowners' written submissions.

### PRELIMINARY & PROCEDURAL MATTERS

- [4] There were no objections to the proposed hearing process as outlined by the Chair.
- [5] There were no objections to the composition of the Board hearing the appeal.

- [6] The Board’s legal counsel advised that the Board’s jurisdiction is found in section 687 of the *Municipal Government Act* (MGA) which allows the Board to hear appeals from development permit decisions. However, if the Board finds that the use which is under appeal is a permitted use, pursuant to section 685(3) of the MGA, the Board is empowered to decide on the merits of the development permit only if the Board finds that the Development Authority has relaxed, varied, or misinterpreted the provisions of the Land Use Bylaw (LUB). For the Board to engage in the merits of the development, the Board must first be satisfied that there has been a misinterpretation, relaxation, or variance of the provisions of the LUB.

#### ISSUE

- [7] Should the Board confirm, revoke, or vary the development permit?

#### RECOMMENDATION OF THE DEVELOPMENT AUTHORITY

- [8] Carla Williams, representative of the Development Authority, provided a presentation which outlined the Development Authority’s approval of Development Permit 305305-24-DO197. In summary:

1. In 2008, the original RV Storage lot was approved for 40 stalls, as a discretionary use on land districted AG – Agriculture under the previous Land Use Bylaw. In 2010, a kennel was approved for 40 dogs, as a discretionary use.
2. On August 26, 2020, Council approved Bylaw 1461/19, to amend Land Use Bylaw 1385/17 to redistrict a 3.01-hectare portion of the subject property from AG – Agriculture District to RVS – Recreational Vehicle Storage District.
3. In accordance with section 16.8.2 of the Land Use Bylaw, a *recreational vehicle storage facility* is a permitted use in the RVS district.
4. A development permit to expand the RV storage facility to accommodate an additional 167 stalls was approved as a permitted use with conditions on August 7, 2024. The conditions are consistent with the provisions of the Land Use Bylaw.
5. In 2023, Council imposed a moratorium on Land Use Bylaw amendments to redistrict agricultural zoned land for recreational vehicle storage until the Municipal Development Plan (MDP) review underway is completed. The moratorium would only affect the redistricting of parcels to RVS and DC - Direct Control districts where RV storage has been proposed as a use. Landowners of parcels that currently have a land use district that lists RV Storage as a use could still apply for a development permit, and existing permitted RV Storage developments would be unaffected.
6. The Notice of Decision was provided to the applicant and advertised on the County website on the same day the decision was made. Direct notification to adjacent landowners is not required for a decision on a permitted use if the Land Use Bylaw has not been varied or relaxed.
7. The regulations require an applicant to provide “proposed hours of operation.” The regulation does not state the hours of operation “shall be” and therefore the hours of operation should not be limited.
8. Lighting of the storage area is not proposed, limiting anticipated parking movements in the dark.
9. The RVS district is not specifically listed under the Landscaping Regulations of the Land Use Bylaw and therefore a professional landscape plan with securities is not required. Section 8.1, General Landscaping Regulations requires all landscaping to be completed within two years of the issuance of the development permit.

10. There are no setback requirements for an RV storage facility. The proposed expansion is more than 200 metres from an adjacent dwelling.
11. The Applicant has proposed they would plant trees and as such those conditions were included in the development permit.
12. Storage of shipping containers within the RV storage area was not considered or approved as part of this development permit.

### **SUMMARY OF APPELLANT'S POSITION**

[9] The Appellant, Melinda MacDonnell, submitted that:

- She lives adjacent to the RV storage facility, which has interfered with the enjoyment of her property. The RV storage facility produces high volumes of traffic at all times of the day, reflecting light into her home, causing dust on the road, an eyesore due to limited visual buffering, and excessive noise from vehicles and dogs at the kennel.
- She was notified of the proposed redistricting of the subject parcel to Recreational Vehicle Storage in 2020. At the time, she was reassured that the business would not impact her quality of life and she could not have anticipated the significant growth of the business.
- In the spring of 2024, she filed a complaint with County Administration as the business had expanded without obtaining the necessary permits.
- Not all adjacent property owners were provided notice of the proposed redistricting to RVS in 2020, and an affected neighbour told her that he would have opposed the redistricting had he received notice. This constitutes a relaxation of the Land Use Bylaw.

### **SUBMISSIONS FROM ADJACENT LANDOWNERS**

[10] Robin Fuhr, Michelle Durand, and Wendy Durand made verbal submissions and Glenn Raincock and Natasha Potiuk provided written submissions in favour of the appeal. A summary of these concerns include:

- There is significant traffic on Township Road 552, which will be exacerbated by an increase in the number of RV units stored at the site.
- Dust suppression is an issue on Township Road 552.
- Users of the facility live outside of the County and are not aware of the speed limits on gravel roads, causing public safety issues to pedestrians.
- Business hours should be imposed on the RV storage facility to limit traffic in the mornings and evenings.
- The expanded RV storage area does not have sufficient visual buffering, causing an eyesore for adjacent landowners.
- There are existing drainage issues in the area which will be exacerbated by more intensive development.
- The number of units should be capped at the present amount and no expansion allowed to preserve the farmland that the business currently resides on.
- The expansion of the RV storage facility will reduce property values in the area.
- The clients of the RV storage facility are primarily non-County residents. There should be higher regard for local residents who experience the impacts of the business.
- Sufficient notice of the redistricting of subject parcel to Recreational Vehicle Storage was not provided in 2020.
- A relaxation of the Land Use Bylaw occurred when additional RVs were parked prior to the development permit for additional RV units being issued.

## **SUMMARY OF THE APPLICANT'S POSITION**

[11] The Applicant, Brady Lord, submitted that:

- The arguments made fail to signify a relaxation, variation or misinterpretation of the provisions of the Land Use Bylaw. The current development permit was applied for, and approved, as a permitted use.
- Black Paws has been in operation since 2008 under the original permits issued. There are four employees, and they are a well-respected business and continue to serve thousands of customers in Sturgeon County.
- When he purchased the property, the correct permits were in place and transferable. Correspondence was received indicating the existing kennel (up to 40 dogs) and the Recreational Vehicle Storage facility were still approved to operate. No limits were stated for RVs.
- The RV storage and dog kennel have been in full operation since the time the Appellant purchased her property.
- As soon as it became known that the number of RVs exceeded the development permit, actions were taken to rectify it.
- Trees will be planted to provide a visual buffer from adjacent properties.
- Noise, dust, and traffic are to be expected in an agricultural area such as this, including from a nearby chicken farm housing 190,000 birds. To be respectful of neighbours, he has asked customers to be cognizant of hours and noise.
- In 2020, he spoke with neighbours who expressed no concerns about the proposed redistricting. He has heard no concerns regarding the expansion of the RV storage facility.
- In response to a submission that the expansion of the RV storage will negatively impact property values, he submitted property assessments in the area showing current values.
- Traffic and drainage issues have been dealt with through the development permit process.

## **DECISION**

[12] **The Board finds that it does not have jurisdiction to hear the merits of this appeal.**

## **REASONS FOR THE DECISION**

[13] In making its decision on whether to confirm, revoke or vary the development permit under section 687(3)(c) of the MGA, the Board is aware that if the use is a permitted use, the Board's jurisdiction is limited by section 685(3) which states:

**(3)** Despite subsections (1) and (2), no appeal lies in respect of the issuance of a development permit for a permitted use unless the provisions of the land use bylaw were relaxed, varied or misinterpreted or the application for the development permit was deemed to be refused under section 683.1(8).

[14] Therefore, to make a decision on the main issue, the Board must determine the following questions:

- a. What is the use?
- b. Is the use permitted within the district?
- c. Has the Development Authority relaxed, varied, or misinterpreted the Land Use Bylaw?

**What is the use?**

[15] The evidence before the Board was that the application was for a recreational vehicle storage facility. In the absence of any evidence to the contrary, the Board finds as a fact that the use is a recreational vehicle storage facility.

**Is the use permitted within in the district?**

[16] The uncontradicted evidence before the Board is that the district in which the lands are located is RVS – Recreational Vehicle Storage district. In the absence of any evidence to the contrary, the Board finds as a fact that the district is the RVS – Recreational Vehicle Storage district.

[17] The Board has reviewed the evidence before it, noting that the section 16.8.2 of the Land Use Bylaw lists recreational vehicle storage as a permitted use within this district (RVS). Based on this uncontradicted evidence, the Board finds as a fact that, pursuant to section 16.8.2 of the Land Use Bylaw, a recreational vehicle storage facility is a permitted use in the RVS – Recreational Vehicle Storage district.

**Has the Development Authority relaxed, varied, or misinterpreted the Land Use Bylaw?**

[18] Having concluded that the use is permitted within the district, the Board must turn to the question of whether it can proceed to hear the merits of the appeal or is prevented from doing so by section 685(3) of the MGA.

[19] At the outset of the hearing, the Board advised the parties that pursuant to section 685(3) of the MGA, the Board is empowered to decide on the merits of a development permit for a permitted use only if the Board finds that the Development Authority has relaxed, varied, or misinterpreted the provisions of the Land Use Bylaw.

[20] With respect to the question of the relaxation, variance, or misinterpretation of the Land Use Bylaw, the Appellant and others speaking in favour of the appeal raised two issues which they stated showed evidence of a relaxation, misinterpretation or variance of the Land Use Bylaw:

- Not all adjacent property owners were provided notice of the proposed redistricting to RVS in 2020, constituting a relaxation of the Land Use Bylaw.
- The Applicant exceeded the number of allowable RV units prior to the development permit being issued, constituting a relaxation of the Land Use Bylaw.

[21] The Board finds that the issue of notice of the redistricting does not constitute a relaxation misinterpretation or variance of the Land Use Bylaw in relation to this application. The Board must make a decision in relation to the provisions of the Land Use Bylaw in relation to the development permit in question. The Appellant has referred to the redistricting of the lands, which is a separate matter. Redistricting is decided by County Council, not this Board. Further, the redistricting occurred in 2020. The Board is of the view that since the redistricting does not relate to this specific development permit in issue, the Board cannot take that process and any alleged errors of that process into account in its decision in relation to this development permit. Therefore, the Board concludes that the argument about the redistricting is not evidence that the Development Authority relaxed, varied, or misinterpreted the provisions of the Land Use Bylaw in relation to this development permit.

- [22] Further, the Board has reviewed the conditions imposed on the development permit to determine if there has been some variance of the development standards of the Land Use Bylaw. The Board notes that the conditions of the development permit are consistent with the regulations of the Land Use Bylaw as it related to grading, drainage, site access and egress, road use, fencing, and sightliness. The addition of the condition regarding the planting of trees was added at the Applicant's request. Based on the evidence, the Board finds the conditions imposed do not show any evidence of relaxation, variance, or misinterpretation of the Land Use Bylaw.
- [23] With respect to the issue of expansion of the RV storage facility before obtaining the necessary development permit, the evidence before the Board was that the complaint about the expansion was in relation to the Applicant's compliance with the original development permit. The original development permit is not before the Board as the time for its appeal has long since expired. The Board finds the question of compliance with the original development permit is an issue of enforcement of the original permit, a matter not within the Board's jurisdiction.
- [24] Having found that there was no relaxation, variance, or misinterpretation of the Land Use Bylaw, the Board did not proceed to consider the merits of the development, as it is a permitted use pursuant to the Land Use Bylaw.
- [25] For all of these reasons, the Board finds that it does not have jurisdiction to hear the merits of the appeal.

Dated at the Town of Morinville, in the Province of Alberta, this 2<sup>nd</sup> day of October, 2024.



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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 Authority's written decision;
- Planning & Development Services Report;
- Appellant's written submission;
- Applicant's written submission; and
- Adjacent landowners' written submissions.