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Appeal File Number:	025-STU-003
Application Number:	305305-24-D0298
Appeal Against:	Development Authority of Sturgeon County
Appellants:	Tyler Cheyne
Date and Location of Hearing:	February 4, 2025 Council Chambers and Through Electronic Communications
Date of Decision:	February 18, 2025
SDAB Members:	Lili Terry (Presiding Officer), Neal Comeau, Lee Danchuk, Nicole Mackoway, and Don Rigney

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#### **NOTICE OF DECISION**

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**IN THE MATTER OF** an appeal by Tyler Cheyne against the Development Authority's refusal to operate a home-based business level 2 - scrap vehicle removal/hauling located at Plan 7621623, Block 7, Lot 1, Upper Manor Estates, 156-54418 Range Road 251 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 678(1) 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 (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;
  - 4. Planning & Development Services Report;
  - 5. Appellants submission; and
  - 6. Adjacent Landowners' submissions.

#### **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 Presiding Officer.
- [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 Appellant intends to operate his home-based business with only one commercial truck and trailer. Any other vehicles on the property are personally owned and for personal use and enjoyment.
  - The business will operate to move vehicles destined for a scrap yard and the Appellant will not be storing such vehicles on his property.
  - The Appellant wishes to work with Sturgeon County to develop conditions to his permit application to allow him to operate his business in accordance with the relevant bylaws.

## **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-D0298. In summary:
  1. The property is in the R2 – Country Estate Residential District. It is a 0.4 hectares parcel in Upper Manor Estates in Sturgeon Valley, developed with a single detached dwelling with attached garage.
  2. The application is to operate a home-based business – level 2, with a stated purpose to provide scrap vehicle removal in Edmonton and surrounding areas that includes pick up and drop off of scrap cars at a local auto wrecker utilizing two pickup trucks, two car-hauler trailers, with materials and/or equipment related to the business stored on the property and miscellaneous car parts to be stored in a quonset. A home-based business – level 2 is a discretionary use in the R2 district.
  3. The application was deemed complete and was refused by the Development Authority on December 18, 2024, for the following reasons:
    - The number of trailers used for the business exceed the regulations.
    - Exterior/Outdoor storage not permitted.
    - Salvage Yard (not a use listed in R2 district).
    - In the opinion of the Development Authority, the home-based business as operated, unduly interferes with the use, enjoyment and value of neighbouring parcels.
  4. Section 5.5.15 of Sturgeon County's Municipal Development Plan 1313/13 (MDP) states that the Development Authority shall consider proposed Non-Residential development that supports the home-based business (HBB) levels outlined in the Land Use Bylaw. Development that exceeds HBB levels shall be relocated to an appropriate location based on the activity.

5. Sturgeon County Area Structure Plan: Sturgeon Valley Core (Bylaw 1557/21) states:
- Policy 3.2.1 – The subject parcel is located within Area C, the existing serviced rural residential community which is to maintain its existing status as described under the MDP and regulations governing development outlined in Sturgeon County's Land Use Bylaw.
    - Vision 4.1 - residential development is the predominant land use and commercial development is limited to home occupations, golf courses and other small-scale compatible commercial enterprises.
6. Sturgeon County Land Use Bylaw 1385/17 states:
- Section 2.8.1 – the Development Authority may refuse an application for a discretionary use, where the proposed development does not conform to the Bylaw.
  - Section 12.2.2 – a Home-Based Business Level 2 is a discretionary use within the R2 district.
  - Part 19 – Definitions for Uses:
    - Home-Based Business means the accessory use of a dwelling, accessory buildings and parcel for an occupation, trade, profession, or craft to be operated by the permanent residents of the dwelling.
    - Commercial Vehicle means a unit which includes a multi-axle vehicle or trailer, used in relation to a home-based business. Commercial vehicles are those considered to require a Class 1, 2, 3, or 4 driver's license.
    - Commercial Trailer means a non-motorized vehicle towed by a motorized vehicle. It is commonly used for the transport of goods and materials related to the operation of a home-based business.
    - Exterior Storage means the storage of material and equipment associated with use, but excludes the maximum number of passenger vehicles, commercial vehicles and commercial trailers allowed and associated with the use.
    - Outdoor Storage means the storage of equipment, goods and materials in the open air. This includes the storage of items accessory to the principal use of a development, as well as laydown yards, vehicle or heavy equipment storage compounds, storage of construction material or modular trailers or storage unrelated to the principal use of the parcel or site.
    - Salvage Yard means any place where vehicles or other machinery is broken up and the parts saved and processed for resale.
  - Section 6.16.5 – Home-based businesses shall comply with the requirements provided in Table 6.1, wherein the regulations for HBB Level include:
    - No exterior storage. Any storage shall be located within the dwelling or accessory building(s).
    - Commercial vehicles – One permitted.
    - Commercial trailers – One permitted.
    - Passenger vehicles – One permitted.
  - Section 6.16.7 – The home-based business shall not generate noise, smoke, steam, odour, dust, fumes exhaust, vibration, heat, glare or refuse matter considered offensive or excessive by the Development Authority. At all times, the privacy of the adjacent residential dwelling(s) shall be preserved and shall not, in the opinion of the Development Authority, unduly interfere with or affect the use, enjoyment or value of neighbouring or adjacent parcels.

7. Sturgeon County's Community Standards Bylaw 1631/23 states:
- Part III – Vehicles
    - Section 3(3) At no time shall a Motor Vehicle or Recreation Vehicle be stored or parked in any front yard other than in a parking area where Motor Vehicles or Recreation Vehicles are intended to be parked.
    - Section 3(4) Any Motor Vehicle Vehicles stored on the property in accordance with Part 3 of this Bylaw shall be kept in a state of Good Repair.
    - Section 3(5) Notwithstanding section 3(4), no more than (2) dilapidated, derelict or inoperable Motor Vehicles, whether or not insured or registered, may be allowed on any Property. Such Motor Vehicles shall be covered by a tarpaulin or placed in an approved structure in accordance with the Land Use Bylaw.
8. There is historical photographic evidence that at various times over the preceding two years, the property has not been in compliance with regulations within the Land Use Bylaw and the Community Standards Bylaw, with multiple vehicles in varying states of repair stored on the property and miscellaneous parts and equipment stored outside of an approved structure.
9. The property has been subject to development compliance actions, with complaints received, numerous Sturgeon County staff site visits (April 2023 to present), a warning letter sent to landowner (November 2023), a stop order issued for unauthorized development occurring prior to a development permit approval (October 2024). A Development Compliance Officer requested that the landowner apply for a home-based business permit.
10. The proposed application is inconsistent with the MDP's Policy 5.4.6 which outlines that non-residential development that exceed the intent, purpose and intensity outlined in Sturgeon County's regulations shall be directed to relocate to lands appropriately designated for their intended use.
11. The intent of a home-based business is to be an accessory use to the dwelling, accessory building(s) and the parcel. An accessory use is to be incidental and subordinate to the principal use of the parcel. The subject parcel is districted as R2 – Country Estate Residential, the principal use of the land is intended to be for residential purposes and for a small-scale home-based business that does not negatively impact the neighbourhood.
12. The number of commercial vehicles and trailers allowable for a Home-Based Business on an R2 parcel, as outlined by the Land Use Bylaw is currently 2. The Appellant's application noted 2 vehicles and two trailers were to be designated for use by the home-based business, and that miscellaneous parts would be stored in the existing quonset on-site. The Development Authority must review the application as submitted and take into consideration the activities and land use currently occurring on the property. The Development Authority may also consider if there are records of related complaints.
13. A variance should not be applied to a "use." A relaxation of the Bylaw is not intended to be used as way to undermine the intent of the regulations.
14. Pursuant to section 2.8.1 of Land Use Bylaw, the Development Authority may refuse an application for a discretionary use, where the proposed development does not conform to the Bylaw. The number of commercial vehicles and trailers stored on the site exceed the number that can be approved to operate a Home-Based Business Level 2. Outdoor Storage is neither a permitted nor discretionary use within the R2 district and therefore the application was refused.
15. The Development Authority is of the opinion this business unduly interferes with the neighbourhood and affects the use, enjoyment and value of neighbouring or adjacent parcels and therefore refused the application.

16. Sturgeon County's Safety Codes Officer confirmed the existing quonset used for storage purposes is over 10 square metres in area and therefore requires a development permit and a building permit, pursuant to Part 2 – Control of Development and Section 2.3.1 (p) of the Land Use Bylaw. To issue a building permit engineered drawings or an engineer's letter of compliance is required.

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

[11] The Appellant, Tyler Cheyne, and his Agent, Danny Fayad, attended the hearing and submitted that:

1. Mr. Cheyne has provided the Development Authority with an amended statement of purpose for the proposed home-based business wherein he plans to use one vehicle and one commercial trailer for business purposes.
2. Mr. Cheyne is an automotive enthusiast employed at a car restoration business and enjoys a hobby of collecting and restoring cars for personal use.
3. Mr. Cheyne asserts that the other vehicles on the property are personally owned and registered, are not in a derelict or inoperable state, and do not form part of his business activities.
4. The intention of his business is to offer transportation services to move clients' vehicles intended for scrap from the client's property to an established scrap yard, with no ongoing storage, dismantling, parts sales or storage from his property.
5. The vehicles depicted in the aerial photographs in the hearing agenda package were not all personally owned, however since that time, the Appellant has worked to ensure that all personal vehicles stored on his property are registered and insured, and the miscellaneous car parts have been removed.
6. Mr. Cheyne is in the process of working with the County to bring his site-grading into compliance with County regulations and stated that it is his intention to apply for permit with a variance to construct a 7-foot-tall wood fence around the perimeter of the rear and side yard of the property in the Spring of 2025.
7. Mr. Cheyne is agreeable to working with Sturgeon County to ensure that his business activities follow all County regulations.
8. Should the Board approve the permit, he would be prepared to accept the recommended conditions outlined by the Development Authority, with an amendment to the client traffic generation to reflect what is allowed for home-based business - level 3 use in the Land Use Bylaw.

#### **DECISION**

**[13] The Board GRANTS the appeal and REVOKES the decision of the Development Authority made on December 18, 2024 to refuse development permit application 305305-24-D0298 and approves the permit subject to the following conditions:**

1. The home-based business shall not occupy more than 30% of the gross floor area of the dwelling and the area of the accessory building (fabric quonset 23m<sup>2</sup>) may be used for storage.
2. There shall be a maximum of two (2) dilapidated, derelict or inoperable motor vehicles, whether insured or registered, allowed on the parcel at any given time. Such vehicles shall be covered by a tarpaulin or placed in an approved structure.
3. Storage of vehicle parts related to the business shall be located within the dwelling or an approved accessory building.
4. A separate development permit and building permit shall be obtained to leave the existing accessory building (quonset) as built.
5. Client traffic generation shall be limited to eight vehicle visits per 24-hour period.
6. The home-based business shall be operated by the permanent resident(s) of the dwelling.

7. One commercial vehicle (not exceeding 4,800kg), one passenger vehicle and one trailer may be used for business purposes and be parked on-site in accordance with the approved site plan.
8. The home-based business shall operate between 7:00 a.m. to 8:00 p.m. only.
9. The home-based business shall not generate any nuisance such as noise, smoke, steam, odour, dust, fumes exhaust, vibration, heat, glare or refuse matter considered offensive or excessive by the Development Authority.
10. The development permit is issued to the applicant and is non-transferable. Should the applicant move or sell the business, the permit will become void.
11. The applicant shall construct an appropriate perimeter fence surrounding the rear and side yard of the property subject to the relevant regulations within the Land Use Bylaw.

#### **ADVISORY NOTES**

1. Home Based Business means the accessory use of a dwelling, accessory buildings and parcel for an occupation, trade, profession or craft to be operated by the permanent residents of the dwelling.
2. It is the responsibility of the applicant/landowner to ensure that all development, and activities associated with the development, complies with any federal, provincial, or municipal laws/legislation and any required license, permit, approval, authorization, regulation, or directive.

#### **REASONS FOR THE DECISION**

- [14] The application is for a Home-based Business Level 2. The subject property is zoned R2 – Country Estate Residential District. A Home-based business level 2 is a discretionary use in the R2 district. The Land Use Bylaw defines a Home-based business as “the accessory use of a dwelling, accessory buildings and parcel for an occupation, trade, profession, or craft to be operated by the permanent residents of the dwelling”. Table 6.1 of the Land Use Bylaw specifies the regulations of Home-based businesses, including the Home-based business Level 2, regarding maximum business size, the storage of equipment or material, client traffic, number of non-resident employees, number of commercial vehicles, number of commercial trailers, number of passenger vehicles, hours of operation, and additional on-site parking stall requirements. Outdoor Storage of materials and equipment associated with the home-based business is neither a permitted or discretionary use within the R2 district.
- [16] The Board received evidence that multiple vehicles in various states of repair have been historically observed on the property. Table 6.1 of the Land Use Bylaw outlines the maximum number of commercial vehicles allowed is one (1) and the maximum number of commercial trailers is one (1). The Board heard that the Appellant has amended his home-based business plan to designate one pickup truck and one car-hauler trailer for use in his business operation, and that all other vehicles are for personal use.
- [17] The Board heard from the Appellant he has taken steps to remedy issues with inappropriate storage of vehicles and outdoor storage of car parts and other materials and that he has a willingness to bring all aspects of his proposed home-based business into compliance.
- [18] The Board heard that the Appellant is intending to build a perimeter fence to a height of seven (7) feet which would require a variance, however the Board did not receive detailed evidence regarding the specifications, and therefore finds that not enough information was provided to consider granting this variance as part of this decision. Condition 11 to the development permit

included in this decision necessitates the construction of a fence. It is recommended that the Appellant adhere to regulations within the Land Use Bylaw for fences, and should he wish to vary the height, an application to do so must be made to the Development Authority.

- [19] The Board received 9 written submissions in support of the appeal and 1 written submission in opposition. The Board finds that the construction of the perimeter fence would provide sufficient screening of the property and alleviate any negative impacts as described by an adjacent landowner.
- [20] The Board finds that the Appellant's amended business statement of purpose is in alignment with the requirements for a home-based business – level 2 within the Land Use Bylaw, and that the development permit conditions provide sufficient discretion for Administration to enforce any complaints that may be received.
- [21] The Board finds that the proposed development would not materially interfere with or affect the use, enjoyment, or value of neighbouring parcels of land, and the proposed development conforms with the discretionary use prescribed for that land in the Land Use Bylaw, which is a home-based business – level 2.
- [22] For all of these reasons, the Board grants the appeal and revokes the decision of the Development Authority to refuse the development application.

Dated at the Town of Morinville, in the Province of Alberta, this 18<sup>th</sup> day of February, 2025.



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Lili Terry, Presiding Officer

*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
- Appellants submission; and
- Adjacent Landowners' submissions