

MINUTES OF THE MEETING OF THE PARKLAND COUNTY SUBDIVISION AND DEVELOPMENT APPEAL BOARD HELD IN THE COUNCIL CHAMBERS IN THE COUNTY OFFICE AT PARKLAND COUNTY, ALBERTA ON MONDAY, APRIL 28, 2008.

CALL TO ORDER

The Chairperson, B. Forbes, called the meeting to order at 4:06 p.m.

PRESENT

Members: K. Darby, B. Forbes, C. Goerz, T. Melnyk, J. Smith and S. Zelych
Administration: G. Horsfield, B. McInnis and R. Sider
S. Cammidge (Recording Secretary)

ADOPTION OF AGENDA

Moved by S. Zelych that the Agenda of the meeting be adopted as presented.

CARRIED UNANIMOUSLY

ADOPTION OF MINUTES

Moved by K. Darby that the Minutes of the April 14, 2008 Subdivision and Development Appeal Board meeting be adopted as presented.

CARRIED UNANIMOUSLY

4:10 p.m. Appointment

An appeal of a decision of the Development Authority to conditionally approve Development Permit No. 08-D-037 for (i) Proposed dog boarding kennel to accommodate a maximum of 30 dogs and may accommodate a maximum of 20 cats (ii) Second dwelling unit, single wide mobile home, to allow for the construction of a single family dwelling on Lot 1, Block 1, Plan 0521665, Pt. S.W. 20-53-6-W5M, Municipal Address: 53309A Range Road 65, Applicant: Gary Bowman, Appellants: Robert Mathews, Melissa Mathews, Dave Mathews and Myrtle Mathews.

The Chairperson opened the Hearing at 4:15 p.m.

There was no objection to the Board members hearing this appeal and there was no objection to the Secretary of the Board taking part in any private or in-camera sessions with the Board.

G. Horsfield provided the background of the subject file.

Submission of Appellants – Dave Mathews and Robert Mathews

The following is a summary of a submission to the Board which also reflects responses to questions from the Board.

Administration provided a map indicating the location of the subject lands in relation to the appellants' lands and other adjacent lands. Administration advised that a letter was also received from an adjacent landowner objecting to the conditional approval of Development Permit No. 08-D-037. D. Mathews and R. Mathews both indicated to the Board that they have no objection to the applicant's proposed kennel given the location of the applicant's lands in relation to their lands. Accordingly, D. Mathews advised the Board on behalf of all of the appellants that he wished to withdraw the appeal of Development Permit No. 08-D-037.

Submission of Applicant – Gary Bowman and Lesley Madden

The following is a summary of a submission to the Board which also reflects responses to questions from the Board.

L. Madden questioned whether the appellants had an opportunity to review the April 21, 2008 letter included in the Board's agenda package which addressed the concerns raised in the appellants' appeal letter. L. Madden indicated that she and her spouse have their home for sale and are anxious to start the kennel business.

The Board asked G. Bowman if he had any comments and he indicated he had no comments.

L. Madden made reference to the letter received from an adjacent landowner and questioned the concerns raised in that letter. Administration read into the record the letter received from L. Olynyk dated April 19, 2008. Administration noted that L. Olynyk does not currently reside on his lands but is concerned with noise from the proposed kennel.

The Board asked for clarification regarding the number of residences on the subject lands. G. Bowman indicated there is presently a single wide mobile home on the lands and that he and his spouse intend to build a home.

L. Madden indicated that while the Development Permit allows for a maximum of 30 dogs, she and her spouse intend to initially kennel a maximum of 20 dogs.

Summary of Appellants – Dave Mathews and Robert Mathews

The following is a summary of a submission to the Board.

D. Mathews and R. Mathews did not have any further comments.

The Chairperson thanked those in attendance and closed the Hearing at 4:32 p.m. No objection was made by those persons present at the Hearing when asked whether the Hearing was conducted in fair manner.

G. Horsfield and R. Sider left the meeting at 4:33 p.m.

DECISION OF THE BOARD

BOARD'S FINDING OF RELEVANT FACTS:

Based on the relevant information submitted to the Board, the Board finds the following facts:

1. On March 10, 2008 the Development Authority **conditionally approved** Development Permit No. 08-D-037 for (i) Proposed dog boarding kennel to accommodate a maximum of 30 dogs and may accommodate a maximum of 20 cats (ii) Second dwelling unit, single wide mobile home, to allow for the construction of a single family dwelling on Lot 1, Block 1, Plan 0521665, Pt. S.W. 20-53-6-W5M, Municipal Address: 53309A Range Road 65.
2. On March 26, 2008 an appeal of that decision was received from Robert Mathews, Melissa Mathews, Dave Mathews and Myrtle Mathews objecting to the conditional approval of Development Permit No. 08-D-037 regarding item (i) proposed dog boarding kennel.
3. On April 15, 2008 notification of the Hearing was sent to the applicant, appellants and adjacent landowners.
4. On April 18, 2008 notification of the Hearing was advertised in the local newspaper.
5. On April 23, 2008 a letter was received from the applicant addressing the six concerns raised by the appellants in the appeal letter in relation to the proposed dog boarding kennel.
6. On April 23, 2008 a letter was received from an adjacent landowner, Larry Olynyk, objecting to the conditional approval of Development Permit No. 08-D-037 regarding item (i) proposed dog boarding kennel.
7. Two of the appellants, D. Mathews and R. Mathews, were present at the Hearing and made a submission to the Board.
8. The applicant, G. Bowman, and his spouse, L. Madden, were present at the Hearing and made submissions to the Board.
9. D. Mathews and R. Mathews advised the Board that they do not have any objection to the proposed dog boarding kennel given the location of the applicant's land and wish to withdraw their appeal of Development Permit No. 08-D-037.

Legislation

The Board finds the following legislation relevant:

1. Parkland County Land Use Bylaw No. 15-00, Section 30 and 44.

Motion:

Moved by T. Melnyk that the Subdivision and Development Appeal Board accept the appellants' withdrawal of the appeal of a decision of the Development Authority to conditionally approve Development Permit No. 08-D-037 for (i) Proposed dog boarding kennel to accommodate a maximum of 30 dogs and may accommodate a maximum of 20 cats (ii) Second dwelling unit, single wide mobile home, to allow for the construction of a single family dwelling on Lot 1, Block 1, Plan 0521665, Pt. S.W. 20-53-6-W5M, Municipal Address: 53309A Range Road 65. In relation to the proposed dog boarding kennel, the Board is of the opinion that noise will not be a factor due to the location of the proposed dog boarding kennel. Further, the Board noted that the dogs are to be housed in an enclosed facility from 9:00 p.m. to 7:00 a.m.

CARRIED UNANIMOUSLY

G. Horsfield and R. Sider returned to the meeting at 4:35 p.m. The Chairperson called a recess at this time (4:35 p.m.) and then reconvened the meeting at 4:43 p.m. with all previous members present.

4:40 p.m. Appointment

An appeal of the decision of the Development Authority to conditionally approve Development Permit No. 07-D-341 (i) Proposed accessory building (1010.2 sq m – 10875 sq ft storage structure – personal use only) (ii) Relaxation for proposed accessory building from 6 m (19.6 ft) to 3.71 m (12.1 ft) on the west boundary on W. ½ S.E. 25-52-27-W4M, Municipal Address: 27014 Township Road 524. Note: partial approval only – item (ii) relaxation not approved, Applicant: Marcel Tessier, Appellant: Brian J. Brendzan of Biamonte Cairo & Shortreed on behalf of Marcel Tessier.

The Chairperson opened the Hearing at 4:44 p.m.

There was no objection to the Board members hearing this appeal and there was no objection to the Secretary of the Board taking part in any private or in-camera sessions with the Board.

G. Horsfield provided the background of the subject file.

Submission of Appellant - Brian J. Brendzan of Biamonte Cairo & Shortreed on behalf of the Applicant

The following is a summary of a submission to the Board which also reflects responses to questions from the Board.

B. Brendzan of Biamonte Cairo & Shortreed, solicitor for the appellant, advised that the Subdivision and Development Appeal Board heard an appeal on March 26, 2007 regarding relaxation of the side yard setback of the subject lands for the relocation of a riding arena on an existing foundation. At that time, the Board granted the relaxation of the side yard setback, however, the riding arena was not relocated to the subject lands as the riding arena was unsuitable for public use.

B. Brendzan showed a drawing of the subject lands and indicated what appear to be three accesses to the subject lands. B. Brendzan also showed a map which the appellant obtained from Parkland County and pointed out what the appellant thought were the boundaries of the subject lands.

B. Brendzan advised that the adjacent landowner to the east objected to the riding arena previously proposed on the subject lands as it was for public use, however, does not have any objection to the accessory building currently proposed as the building is for personal use. B. Brendzan made reference to a letter received from the adjacent landowners' lawyer indicating the adjacent landowner has no objection to the accessory building now proposed for the subject lands.

M. Tessier showed a photograph of the proposed accessory building which is to be relocated to the existing foundation on the subject lands. M. Tessier advised that the pole shed addition attached to the building as shown in the photograph, will not be relocated to the subject lands – only the building is to be relocated.

In response to a question from the Board, M. Tessier advised that the accessory building will be situated on the existing foundation and indicated the location of the existing foundation on the site map.

The Board asked whether the riding arena previously intended for the property will be relocated elsewhere and M. Tessier indicated that the riding arena has been relocated elsewhere by a third party.

In response to a question from the Board, M. Tessier indicated he is uncertain as to the distance of the proposed accessory building from the gas line on the west boundary of the subject lands.

The Board asked whether M. Tessier communicated clearly to the Development Authority the need for relaxation of the side yard setback. B. Brendzan advised that M. Tessier assumed it was clear as Administration was familiar with the subject lands due to previous applications. Administration clarified that a new Development Permit was required in this instance as both the use and the size of the accessory building had changed. Administration further clarified that the Development Authority refused the subject Development Permit as opposed to Administration.

Summary of Appellant - Brian J. Brendzan of Biamonte Cairo & Shortreed on behalf of the Applicant

The following is a summary of a submission to the Board.

B. Brendzan summarized that the proposed accessory building is for private use and the adjacent landowner to the east has no objection to the subject Development Permit.

The Chairperson thanked those in attendance and closed the Hearing at 5:08 p.m. No objection was made by those persons present at the Hearing when asked whether the Hearing was conducted in fair manner.

A decision on this matter was deferred to later in the meeting.

5:10 p.m. Appointment

An appeal of the decision of the Development Authority to refuse Development Permit No. 08-D-019 for proposed 3-4 acre RV storage compound on Lot 5, Plan 608RS, Pt. S.W. 14-53-27-W4M, Municipal Address: #5, 27120 Township Road 532A, Applicants/Appellants: Bruce Lloy and Patricia Lloy.

The Chairperson opened the Hearing at 5:15 p.m.

There was no objection to the Board members hearing this appeal and there was no objection to the Secretary of the Board taking part in any private or in-camera sessions with the Board.

G. Horsfield provided the background of the subject file.

Submission of Appellant – Bruce Lloy

The following is a summary of a submission to the Board which also reflects responses to questions from the Board.

B. Lloy indicated that the proposed RV storage compound was planned to originally accommodate 350 RV units using 3 to 4 acres of the titled area (16.2 acres). B. Lloy further indicated this calculation was based on an existing RV storage business in the area which was rumored to be ceasing operation however, in discussions with the owner of the RV storage business, B. Lloy determined that there are no plans to cease operations. Accordingly, B. Lloy intends to scale down his proposed storage compound to accommodate 125 RV units using 1.5 to 3 acres of the titled area. B. Lloy indicated there is also a second RV storage compound operating in the vicinity of the subject lands.

B. Lloy acknowledged that the subject lands are located in the "fringe area" according to Parkland County's Land Use Bylaw and are zoned Agricultural Restricted. B. Lloy indicated he is aware that the City of Spruce Grove does not support the proposed development. B. Lloy further indicated that he has spoken with a member of Administrative staff at the City of Spruce Grove as well as the mayor of the Town of Stony Plain regarding the proposed development. B. Lloy advised that the adjacent landowner to the west will have a view of the RV's but he plans to plant trees to minimize the adjacent landowner's view of the storage compound.

B. Lloy acknowledged that the lands are within the boundaries of the Atim Creek North Area Structure Plan and indicated he believes RV storage is a discretionary use. He suggested that the Development Permit could be "time limited" and believes the storage compound will not disrupt the agricultural value of the land as no paving or gravelling will occur on the site. B. Lloy indicated he intends to install fencing and may level a "windrow" which is on the subject lands. In his opinion, the land is not sufficient for agricultural use as it is hilly and contains shrubs although a portion of the lands could be used for hay. B. Lloy made reference to Sections 3.2 and 5.2 the Atim Creek North Area Structure Plan and suggested that the storage compound will not interfere with the agricultural nature of the lands nor will it impact the water table.

The Board asked B. Lloy to indicate the proposed location of the storage compound on the site map. B. Lloy pointed out Areas "A" and "B" on the site map indicating that the storage compound could be located in either area but specified he wishes to locate the storage compound on Area "B". The Board asked what the approximate size of Area "B" was and B. Lloy indicated he did not know the exact size of Area "B". The Board further asked whether B. Lloy purchased all of the titled area or just that portion required for the storage compound. B. Lloy indicated he purchased the entire titled area.

The Board noted B. Lloy suggested the Development Permit could be "time limited" and asked what minimum length of time he would suggest for the Development Permit. B. Lloy responded that the Development Permit could be granted for a 5 to 7 year term.

The Board asked whether the subject lands contain a residence and B. Lloy indicated there is a bungalow as well as a double wide mobile home on the lands. The Board further asked whether B. Lloy intends to have both residences remain on the lands. B. Lloy indicated that he intends both residences to remain on the subject lands but that it would ultimately depend on the financing he obtains to facilitate the purchase of the lands.

In response to a question from the Board, B. Lloy indicated he does not intend to gravel or pave the compound storage area. The Board asked whether the storage area will be fenced and B. Lloy indicated that the perimeter of the subject lands is fenced with the exception of the south boundary which he intends to fence.

The Board asked where the two existing RV storage compounds are located in relation to B. Lloy's lands. B. Lloy indicated that the two existing storage compounds are approximately one kilometer away – one compound has 125 RV units and the second compound has 350 units.

In response to a question from the Board, Administration noted that the City of Spruce Grove was not advised of the appeal regarding the refusal of Development Permit No. 08-D-019. Administration suggested that the Hearing be adjourned to allow time for the City of Spruce Grove to provide further comments on the proposed development. The Board noted a letter received from Alberta Transportation was included in the agenda package and Administration advised that if the Development Permit had been approved by the Development Authority, Alberta Transportation would require that the applicant apply for a provincial roadside development permit.

Submission of Adjacent Landowner – Dave Pylypow

The following is a summary of a submission to the Board which also reflects responses to questions from the Board.

D. Pylypow indicated he owns Lot 3 which is west of the subject lands and requested that if the proposed development is approved, there be a visual barrier between his property and the subject lands. D. Pylypow suggested trees be planted of a size, type and quantity to ensure an adequate visual barrier. The Board suggested that spruce trees do not grow quickly and asked whether a combination of spruce and aspen trees would be adequate. D. Pylypow responded that the trees be of a size, type and quantity to ensure adequate visual coverage.

The Board asked D. Pylypow to clarify where his lot is in relation to the subject lands and D. Pylypow indicated he owns Lot 3 which is west of the subject lands. Regarding Areas "A" and "B" noted on the site map, the Board asked which site would be preferable so as to limit his view of the storage compound and D. Pylypow indicated Area "B" might be preferable but has concerns regarding the proposed storage compound. D. Pylypow indicated there are some existing trees on the subject lands but are insufficient as a visual barrier.

Administration clarified for the Board that the mobile home located on the subject lands is a single wide mobile home and the appellant would be required to apply for a Development Permit to allow the mobile home to remain once title to the lands is transferred into his name.

Summary of Appellant – B. Lloy

The following is a summary of a submission to the Board.

B. Lloy questioned whether it is necessary to receive further comments from the City of Spruce Grove regarding the proposed development. B. Lloy indicating he wishes to proceed with the development in good faith and indicated that the proposed storage compound business will supplement the expense of the land.

The Chairperson called a recess at this time (5:55 p.m.) and then reconvened the meeting at 5:58 p.m. with all previous members present.

The Chairperson advised that it is the Board's opinion that the Hearing be adjourned to allow Administration an opportunity to provide notice to the City of Spruce Grove of the appeal of the Development Permit No. 08-D-019 and to allow the City an opportunity to comment further on the proposed development. Therefore, the Hearing is adjourned to Monday, May 12, 2008 at 4:40 p.m.

G. Horsfield and R. Sider left the meeting at 6:03 p.m.

An appeal of the decision of the Development Authority to conditionally approve Development Permit No. 07-D-341 (i) Proposed accessory building (1010.2 sq m – 10875 sq ft storage structure – personal use only) (ii) Relaxation for proposed accessory building from 6 m (19.6 ft) to 3.71

m (12.1 ft) on the west boundary on W. ½ S.E. 25-52-27-W4M, Municipal Address: 27014 Township Road 524. Note: partial approval only – item (ii) relaxation not approved, Applicant: Marcel Tessier, Appellant: Brian J. Brendzan of Biamonte Cairo & Shortreed on behalf of Marcel Tessier.

DECISION OF THE BOARD

BOARD'S FINDING OF RELEVANT FACTS:

Based on the relevant information submitted to the Board, the Board finds the following facts:

1. On March 10, 2008 the Development Authority conditionally approved Development Permit No. 07-D-341 (i) Proposed accessory building (1010.2 sq m – 10875 sq ft storage structure – personal use only) (ii) Relaxation for proposed accessory building from 6 m (19.6 ft) to 3.71 m (12.1 ft) on the west boundary on W. ½ S.E. 25-52-27-W4M, Municipal Address: 27014 Township Road 524. Note: partial approval only – item (ii) relaxation not approved.

Regarding refusal of the relaxation:

1. As the applicant did not bring forward any extenuating circumstance the relaxation is not approved. The Development Authority is of the opinion that construction of the proposed accessory building on the west side of the existing foundation as opposed to the east would enable the applicant to meet the required 6 m sideyard setback as required by Parkland County's Land Use Bylaw 15-00.
2. On March 27, 2008 an appeal of that decision was received from Brian J. Brendzan of Biamonte Cairo & Shortreed on behalf of the applicant.
3. On April 15, 2008 notification of the Hearing was sent to the applicant, appellant and adjacent landowners.
4. On April 18, 2008 notification of the Hearing was advertised in the local newspaper.
5. B. Brendzan of Biamonte Cairo & Shortreed on behalf of the applicant, was present at the Hearing and made a submission to the Board.
6. The applicant, M. Tessier, was present at the hearing and made a submission to the Board.
7. The Board noted that the proposed accessory building is to be located on an existing foundation and is intended for personal use.
8. The Board noted the letter received from the solicitor for the adjacent landowner east of the subject lands which indicates the adjacent landowner does not object to Development Permit No. 07-D-341.

Legislation

The Board finds the following legislation relevant:

1. Parkland County Land Use Bylaw No. 15-00, Section 23.

Reasons

The Board received evidence on a number of issues and will address these issues in the reasons which follow:

The Board upholds the appeal for the following reasons:

1. Relaxation from 6 metres (19.6 feet) to 3.71 metres (12.1 feet) was previously granted by the Subdivision and Development Appeal Board on March 26, 2007 for a proposed accessory building (public riding arena).
2. The proposed accessory building to be relocated to the subject lands is for personal use only and not for public use as the previously proposed accessory building (riding arena).
3. The adjacent lands to the east are vacant and the adjacent landowner has no objection to the subject Development Permit.

Motion:

Moved by J. Smith that the Subdivision and Development Appeal Board uphold the appeal and vary the decision of the Development Authority

regarding Development Permit No. 07-D-341. Therefore, Development Permit No. 07-D-341 for (i) Proposed accessory building (1010.2 sq m – 10875 sq ft storage structure – personal use only) (ii) Relaxation for proposed accessory building from 6 m (19.6 ft) to 3.71 m (12.1 ft) on the west boundary on W. ½ S.E. 25-52-27-W4M, Municipal Address: 27014 Township Road 524 is conditionally approved in its entirety subject to the following conditions:

1. The accessory building shall be for personal use pertaining to the agricultural use of this land only (tractors and farm equipment) and at no time shall be used in connection with any business or occupation or for accommodation purposes.
2. The applicant shall sign a letter of undertaking pertaining to condition 1 of this permit.
3. The relaxation from 6 m (19.6 ft) to 3.71 m (12.1 ft) on the west boundary of the subject lands shall be for the proposed accessory building (1010.2 sq m – 10875 sq ft storage structure) only.
4. Any further development shall be in accordance with Parkland County's Land Use Bylaw No. 15-00.
5. The site shall be kept in a neat and orderly condition.

CARRIED UNANIMOUSLY

ADJOURNMENT

Moved by B. Forbes that the meeting be adjourned at 6:06 p.m.

CARRIED UNANIMOUSLY

CHAIRPERSON