

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 TUESDAY, OCTOBER 14, 2008.

CALL TO ORDER

The Chairperson, B. Forbes, called the meeting to order at 4:14 p.m.

PRESENT

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

ADOPTION OF AGENDA

Moved by K. Darby that the Agenda of the meeting be adopted as presented.

CARRIED

ADOPTION OF MINUTES

Moved by K. Darby that the Minutes of the September 22, 2008 Subdivision and Development Appeal Board meeting be adopted as presented.

CARRIED

4:10 p.m. Appointment

An appeal of a decision of the Development Authority to refuse Development Permit No. 07-D-337 to leave as sited accessory building (201.85 sq m – 2172 sq ft previous residence to be converted to storage structure) which when combined with existing accessory buildings totals 643.9 sq m (6931.8 sq ft) in combined floor area on S. ½ N.E. 30-54-6-W5M, Municipal Address: 54422 Range Road 65, Applicant/Appellant: Brad Danyluk and Christine Giezen.

The Chairperson noted for the record that the subject Hearing was adjourned from January 28, 2008 to allow the appellant an opportunity to obtain and submit to Administration by August 31, 2008, a report prepared by a professional engineer regarding the proposed accessory building. The Chairperson re-opened the Hearing at 4:20 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.

As the Hearing was adjourned from January 28, 2008 to allow the appellant an opportunity to obtain a report prepared by a professional engineer regarding the proposed accessory building (previous residence to be converted to storage structure), the Board asked Administration whether a report was submitted by the appellant prior to the August 31, 2008 deadline. Administration advised that to date a report has not been received from the appellant.

Submission of Appellant – Brad Danyluk

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

B. Danyluk made reference to his email submitted to Administration on August 27, 2008 and advised the Board that he intends to remove the existing house but intends to retain the existing attached garage. B. Danyluk advised that he has an engineer's letter indicating that any damage caused to the garage due to the house demolition could be easily repaired. B. Danyluk made reference to the photograph of the existing house and attached garage and provided Administration with a copy of a letter dated September 30, 2008 prepared by Green Engineering Limited.

In response to a question from the Board, B. Danyluk advised that one of the walls from the house will not be demolished but will remain to provide support for the bank. When asked by the Board, B. Danyluk clarified that the house will be cut away from the attached garage leaving the foundation of house which will be filled in with soil.

In response to a question from the Board, B. Danyluk advised that he does not intend to demolish any other existing accessory buildings on the property – a quonset and two pole sheds which are used for storage. In response to a question from the Board, Administration advised that the appellant is allowed 4,000 square feet of accessory building space.

B. Danyluk advised he is willing to tear down one of the pole sheds if required but believes a pole shed should not be classified as an accessory building. In response to

a question from the Board, Administration advised that a pole shed is considered an accessory building.

Submission of Scott Danyluk

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

S. Danyluk advised that B. Danyluk is his father. S. Danyluk indicated that the pole sheds are old animal shelters which are currently being used to store lumber. S. Danyluk concurs with his father and believes the pole sheds should not be classified as accessory buildings.

In response to a question from the Board, Administration advised that on a 160 acre parcel which is actively farmed, a pole shed is not considered an accessory building. Administration further advised that B. Danyluk's parcel is 54.95 acres and is not actively farmed; therefore the pole sheds are classified as accessory buildings.

Summary of Appellant – Brad Danyluk

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

B. Danyluk advised that he may operate a business from the lands at some point in the future.

In response to a question from the Board, B. Danyluk advised he expects to have the existing home demolished by spring. In response to a further question from the Board, B. Danyluk advised that a final inspection on his new home was done approximately 3 weeks ago however, the home is not fully complete as some work remains to be done.

No objection was made by those persons present at the Hearing when asked whether the Hearing was conducted in fair manner. The Chairperson thanked those in attendance and closed the Hearing at 4:55 p.m.

G. Horsfield and R. Sider left the meeting at 4:56 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 December 17, 2007 the Development Authority refused Development Permit No. 07-D-337 to leave as sited accessory building (201.85 sq m – 2172 sq ft previous residence to be converted to storage structure) which when combined with existing accessory buildings total 643.9 sq m (6931.8 sq ft) in combined floor area on S. ½ N.E. 30-54-6-W5M for the following reasons:
 1. The Development Authority was not convinced that the structure (the older house which was to be converted to an accessory building) was suitable for its intended use. This was based on the applicants/landowners previous statements that the reason for the construction of the new home and the location chosen was that the foundation of the existing older house (the proposed accessory building) was "crumbling" and was, in his opinion, unsafe.
 2. The structure shall be removed from the property within 90 days from the final inspection of the new single detached dwelling, as per the letter of undertaking signed by the applicants/landowners on December 12, 2007.
2. On January 7, 2008 an appeal of that decision was received from the applicants.
3. On January 15, 2008 notification of the Hearing was sent to the applicants/appellants and adjacent landowners.
4. On January 18, 2008 notification of the Hearing was advertised in the local newspaper.
5. On January 28, 2008 the Subdivision and Development Appeal Board adjourned the Hearing to Tuesday, October 14, 2008 at 4:10 p.m. directing the appellants to provide "an engineering report prepared by a professional engineer indicating proposed modifications to the structure could support the building being used as a storage facility and that the proposed modifications would not affect the stability of the bank on the property." The Board further specified that the engineering report is to be provided to Administration by August 31, 2008.

6. On February 8, 2008 a letter was sent to the appellants advising that the Hearing was adjourned to October 14, 2008 and advising that a professional engineering report regarding the accessory building is to be provided by August 31, 2008.
7. On August 27, 2008 an email was received from Brad Danyluk advising of his intention to remove the existing home from the lands but to maintain the existing attached garage.
8. On September 23, 2008 a letter was sent to the appellants regarding the Hearing date of October 14, 2008.
9. B. Danyluk was present at the Hearing and made a submission to the Board.
10. B. Danyluk submitted a letter to the Board dated September 30, 2008 prepared by Donald Green, P. Eng. of Green Engineering Limited regarding the proposed accessory building (existing house and attached garage).
11. S. Danyluk, son of B. Danyluk, was present at the Hearing and made a submission to the Board.

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. The Board is of the opinion that the September 30, 2008 letter prepared by Donald Green, P. Eng. of Green Engineering Limited is satisfactory.
2. The Board heard that while there are presently three accessory buildings on the subject lands, a quonset and two pole sheds, the appellant intends to demolish the residential portion of the existing house. Therefore, the existing attached garage will remain as an accessory building reducing the overall square footage of accessory building space.
3. The Board is of the opinion that due to the size of the subject lands, 54.95 acres, the amount of accessory buildings is not excessive.
4. The Board is further of the opinion that the subject lands are heavily treed and the amount of accessory buildings should not interfere with or affect the use, enjoyment or value of neighbouring properties.

Motion:

Moved by C. Goerz that the Subdivision and Development Appeal Board uphold the appeal and vary the decision of the Development Authority regarding Development Permit No. 07-D-337 to leave as sited accessory building (201.85 sq m – 2172 sq ft previous residence to be converted to storage structure) which when combined with existing accessory buildings totals 643.9 sq m (6931.8 sq ft) in combined floor area on S. ½ N.E. 30-54-6-W5M. The Subdivision and Development Board varied the decision of the Development Authority as follows:

To leave as sited an accessory building {54.9 sq m – 590 sq ft garage previously attached to the existing residence (existing residence demolished)} on S. ½ N.E. 30-54-6-W5M, Municipal Address: 54422 Range Road 65 subject to the following conditions:

1. The applicant shall demolish and remove from the subject lands the residential portion of the existing home by no later than **February 14, 2009**. The attached garage (proposed accessory building) shall be permitted to remain and any damage caused to the garage due to the demolition and removal of the residential portion of the home shall be repaired by the applicant.
2. The proposed accessory building shall be for personal use only and at no time shall be used for residential or accommodation purposes or in connection with any business or occupation.

3. The applicant shall sign a Letter of Undertaking pertaining to Condition No. 2 of this Development Permit.
4. The applicant shall obtain any and all provincial permits and/or licenses.
5. Development shall be as per the site plan submitted.
6. Any further development shall be in accordance with Parkland County's Land Use Bylaw No. 15-00.
7. This site shall be kept in a neat and orderly condition.
8. Any permits and approvals as required by the Safety Codes Act shall be applied for and obtained.

Please Note: The applicant is required to obtain all permits and approvals as required by the Safety Codes Act. These shall include but not be limited to permits for Building, Electrical, Gas, Plumbing and Private Sewage Disposal Systems. Please contact Parkland County's Planning Department in this regard.

CARRIED

ADJOURNMENT

Moved by J. Smith that the meeting be adjourned at 5:38 p.m.

CARRIED

CHAIRPERSON