

**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 JULY 25, 2016**

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**CALL TO ORDER**

The Chairperson, Tracey Melnyk, called the meeting to order at 4:01 p.m.

**PRESENT**

Members: T. Melnyk, G. MacDougall, J. Smith, R. Underwood, J. McCuaig  
Clerk: D. Tymchyshyn, Supervisor, Legislative & Administrative Services  
Recording Secretary: L. Tyerman, Administrative Assistant, Legislative & Administrative Services.

**ADOPTION OF AGENDA**

Moved by G. MacDougall that the July 25, 2016 Agenda be adopted as presented.

**CARRIED**

**ADOPTION OF MINUTES**

December 14, 2015  
January 11, 2016  
April 11, 2016

Moved by J. McCuaig that the Subdivision and Development Appeal Board minutes be adopted, as presented.

**CARRIED**

**NEW BUSINESS:**

**4:10 p.m. Appointment**

An appeal of the Development Permit Application 16-D-301 for Accessory building and uses – Side yard variance for existing shed from 3 m to 0 m at Plan 3984 MC, Block 1, Lot 1.

The Chairperson opened the Hearing at 4:12 p.m.

The Chairperson asked if anyone affected by the Appeal had any objections to the Board members hearing the appeal, there were none.

The Chairperson introduced D. Tymchyshyn, Clerk to the Subdivision and Development Appeal Board. The Chairperson advised that it is the Board's practice to have the Clerk participate in private and in-camera discussion with the Board and asked those present if there were any objections, there were none.

**PRESENT-ADMINISTRATION STAFF**

C. Thomas, Supervisor, Development Planning  
Kim Kozak, Assistant Development Officer

The Subdivision and Development Appeal Board Clerk introduced the Appeal into the record.

The Chairperson asked if any affected party present planned to provide any written materials not provided to the Clerk in advance of the hearing. The Appellant, Mr. Steve Zelych came forward and asked to submit a letter from the Parkland County Planning and Development Services department as evidence. The Chairperson directed Mr. Zelych to give the materials to the Clerk for inspection. After inspection the Clerk made the Chairperson aware that the letter would need to be distributed to all of the Board members as well as affected parties. The Chairperson asked if anyone present would like to request a postponement as a result of the additional information. No one requested a postponement.

The Chairperson explained the order of presentation for the hearing and asked those in attendance if they had any concerns with the outlined process. No one present had concerns.

The Chairperson called upon Mr. Thomas, Supervisor of Development Planning to begin the presentation of Administration.

**Submission of the Development Authority**

Mr. Thomas read the Administrative Report into the record and provided the background of the subject file regarding Development Permit No. 16-D-301.

- Mr. Thomas made the Board aware that the Applicant, Angela Gauthier on behalf of the registered property owner, applied for a Development Permit to leave as located an accessory building – side yard variance from 3 m (10.0 ft.) to 0 m (0.0ft).
- After reviewing the application the Development Authority approved the application subject to 7 conditions.
- Condition number 2 which states that the portion of the eaves and shed which encroaches onto lot 2 be removed.
- The shed is to be entirely located on lot number 1 no later than August 15, 2016.
- The side yard setback requirement was relaxed from 3 metres to 0 metres.
- The shed encroaches onto the property line 0.32 of a metre.
- The Land Use Bylaw states that the Development Authority may grant a variance and approve an application for a development permit if in the opinion of the Development Authority the development would not:
  - a) Unduly interfere with the amenities of the neighbourhood;
  - b) materially interfere with or affect the use, enjoyment or value of neighbouring properties;
  - c) conform with the use prescribed for that land or building under the Land Use Bylaw.
- Mr. Thomas concluded his presentation by directing the Boards attention to three aerial photographs depicting the subject property. He pointed out that the shed is barely visible due to visual abatement provided by vegetation.

When questioned by the Board, Mr. Thomas answered that the letter submitted at the hearing by Mr. Zelych was issued by a Development Clerk on November 20, 2015. It has since been determined that the subject property is under Parkland County's jurisdiction.

When questioned by the Board, Mr. Thomas replied that when considering the Application, the Development Authority did not feel that potential run off from the shed onto the Appellants property would affect the use, enjoyment or value of the Appellants property from a land use perspective.

When questioned by the Board, Mr. Thomas said that if the Appellant wanted to install a fence it would have to be slightly inside the property line to accommodate the shed.

**Submission of the Appellant, Mr. Steve Zelych**

- Resides at Lot 2, Evergreen Bay, Jackfish Lake.
- Mr. Zelych directed the Boards attention a sketch included in the agenda package which shows the lot prior to the year 2000, the building impression was over the property line approximately 4-6 feet.

- Mr. Zelych referenced a letter he had written in 2001. The letter was regarding the neighbour's dispute with the owners of Lot 1 and the location of the shed at that time. He indicated that he tried to supply this letter to the late Mr. Agterbos and that Mr. Agterbos had refused to accept it. He let the board know that his friend Brian Burton witnessed the letter, and that Brian was in attendance of the hearing if the Board wished to hear from him.
- Mr. Zelych indicated that he strongly opposes the Development Permit allowing a setback of 0 metres. He feels that a setback of 1 metre would be acceptable as it would correct the issue of encroachment. He asked the Board to consider that to correct the encroachment as it is now, the Applicant would need to enter his property.

When questioned by the Board, Mr. Zelych answered that to his knowledge the shed had never been moved, but had been added to. Mr. Thomas added that to his knowledge the building as shown on the Real Property Report had existed in the location for some time.

When questioned by the Board, Mr. Thomas stated that at the time the shed was constructed there were no permit requirements in the Land Use Bylaw for a building of this nature.

When questioned by the Board, Mr. Thomas indicated that if the eaves are removed the shed will still encroach on lot 2, the siding may need to be removed to fully address the issue of encroachment.

When questioned by the Board, Mr. Thomas said that repositioning or removing the shed would likely destroy it, and would be a hardship to the Applicant.

When questioned by the Board, Mr. Zelych explained that the reason he would be open to a 1 metre setback was that he does not like the Applicants using his property to access the shed. He feels that the Applicant has disregarded the property line by building the shed where it stands. He would prefer that the Applicants have a setback and be able to access the building from their own property.

The Chairperson asked if anyone in the audience would like to speak in support of the Appellant.

#### **Submission of Freda Patterson**

- Lives adjacent to the Applicant.
- Ms. Patterson stated that she is aware of Mr. Zelych requesting that the Applicant address the encroachment issue in the 5 years she has lived in the area.
- Ms. Patterson spoke of past grievances between herself and the Applicant.

#### **Submission of the Applicant, Angela Gauthier**

- Daughter of Marie Agterbos, registered owner of the property who resides at Lot 1, Evergreen Bay, Jackfish Lake.
- Ms. Gauthier indicated that her father had moved the shed at some point, but she could not provide the date.
- Ms. Gauthier does not feel that the shed is affecting the Appellants use and enjoyment of his property, or that the shed is an unsightly structure.
- Ms. Gauthier explained that she was complying with the conditions set out in the Development Permit and removing the eaves that

encroach on Mr. Zelych's property. Due to weather the job was interrupted.

- Mr. Zelych placed tomato cages and steel debris in the area blocking the Applicant from completing the work to remove the eaves.
- Ms. Gauthier indicated that her understanding of a Real Property Report was that it is used to show where a structure is on the person's property who requested it. She feels that that purpose of the report is to show potential buyers that none of the Appellants structures are encroaching onto adjoining lots. She feels that if the Appellant sold his property she would be able to deal with the issue of encroachment with the buyer.

When questioned by the Board, Ms. Gauthier answered that the shed was half its size to begin with and that the second half is the part causing the encroachment. Ms. Gauthier feels that the shed would be destroyed by moving it. She submitted that she feels it would be a hardship to move it.

When questioned by the Board, Ms. Gauthier answered that she could potentially remove the remaining portion of the eaves by completing the work from the roof of the shed.

The Chairperson asked if anyone in the audience would like to speak in favor of the Applicant. No one came forward.

**Closing remarks of the Applicant, Ms. Gauthier**

Ms. Gauthier reiterated that it would be a great hardship to move the shed to allow a setback. She stated that she does not understand why she cannot make arrangements with the new owner if Mr. Zelych plans to sell his property.

**Closing remarks of the Appellant, Mr. Zelych**

Mr. Zelych suggested that in order to give the shed a 1 metre setback the Applicant could hire a contractor to cut the roof back and install a gable and the problem would be solved.

When questioned by the Board, Mr. Zelych answered that he would be happy with a 1 metre setback. He indicated that he would allow the Applicant to enter his property to remedy the encroachment on the condition that it is to provide the requested 1 metre setback.

The Chairperson asked the affected parties if they had any concerns with the process of the hearing that were not previously raised. There were no concerns from either party.

**ADJOURNMENT**

The Chairperson closed the hearing at 5:05 p.m.



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CHAIRPERSON