

**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 JANUARY 5, 2017**

CALL TO ORDER

The Chairperson, P. Kobasiuk called the meeting to order at 4:00 p.m.

PRESENT

Members: G. MacDougall, D. Mattson, P. Kobasiuk, R. Underwood

Clerk: D. Tymchyshyn, Manager, Legislative Services

Recording Secretary: L. Tyerman, Administrative Assistant, Legislative Services

Legal Counsel: G. Stewart-Palmer

ADOPTION OF AGENDA

Moved by D. Mattson that the January 5, 2017, Agenda be adopted as presented.

CARRIED

ADOPTION OF MINUTES

No unadopted minutes available

NEW BUSINESS:

4:10 p.m. Appointment

An appeal of a decision of the Development Authority to refuse Development Permit Application No. 16-D-661 for a Home Based Business Level 3 (Expand business to include extra outside storage of company vehicles, heavy equipment, and materials) at Block A, Plan 3984 TR, SE-7-53-1-W5, Municipal Address 1515 HWY 16A.

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.

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

Present Administration Staff

K. Kormos, Development Planner

K. Kozak, Assistant Development Officer

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 following submissions were brought forward, considered by the Board and accepted:

- Brent Adams, adjacent neighbour – Cellphone video of operations on the site
- Greg Mohr, neighbour – Two Google maps of the site
- Kelly Haberman, Applicant/Appellant – Additional letter of support from adjacent neighbour

The Chairperson called a recess at 4:22 p.m.

The Chairperson called the hearing back to order at 4:34 p.m.

The Chairperson confirmed that all affected parties had received copies and felt they had sufficient time to review the materials.

Submission of the Development Authority

Ms. Kozak read the Administrative Report into the record and provided the background of the subject file regarding Development Permit No. 16-D-661. Ms. Kozak stated that:

- The site is zoned Country Residential District.
- The Development Authority determined the proposed expansion would exceed a Home Based Business Level 3. The proposed use would be considered industrial storage and warehousing which is neither permitted nor discretionary in the district, therefore the Application was refused.
- The Application for expansion of the Home Based Business Level 3 was submitted after Parkland County received numerous complaints resulting from the noise and vibration coming from the subject land.
- Home based level 3 does not include more intensive industrial uses and does not allow for outdoor storage.
- The proposed use is not consistent with the provisions of the Municipal Development Plan or the Parkland County Land Use Bylaw.

Submission of the Appellant, Kelly Haberman, K&R Inc.

Mr. Haberman submitted the following:

- Since the initial application for a Home Based Business Level 3 the amount of equipment on the site has been reduced, with the exception of a grader that was purchased to maintain the road, as well as a gravel truck which was used to aid with clean-up of the site.
- The mats on the property are not rig mats but dirt mats. The dirt mats are used to prevent spread of clubroot between jobs. Before the economic slowdown the matting and blocking would often go straight from one job to another. Now the matting and blocking have come back to the site.
- The piping seen in the yard is actually reject pipe that was given to him. Mr. Haberman thought the piping would be valuable. He did not realize he would be receiving as much as he did and is now trying to unload it.
- The matting and blocking as well as the pipe personally owned by Mr. Haberman came back to the site in June of 2016. The matting and blocking was sent out to another job in the fall.
- The reason K&R Inc. applied for the expansion permit was to accommodate the matting and blocking in the event that they do not have more work and it returns to the site. Mr. Haberman was under the impression that the permit applied for was for additional storage only.
- Mr. Haberman acknowledged that backup alarms are irritating. They can be unhooked when the machines are just moving things around the yard, but when loading mats and blocking the alarms have to be activated for safety reasons.
- K&R Inc. has only received complaints from one neighbor with regards to noise.
- The plan is for all the pipe to be removed from the property, but the matting and blocking are a part of the mulching business and will be in and out of the yard depending on the amount of work available.
- Mr. Haberman said that the business is not intrusive to the neighbours during the summer when trees and foliage provide visual and noise abatement, but recognizes this could be an issue in

the winter. He suggested that the installation of a lean-to in that area could deflect noise and visual disturbances.

When questioned by the Board, Mr. Haberman replied that he had offered to install a berm or fence if it would help alleviate the concerns of the neighbours. After speaking with Parkland County Planning personnel, Mr. Haberman felt the best possible solution would be a lean-to.

When questioned by the Board, Mr. Haberman said that the submitted plan for the expansion was not drawn exactly as it was intended to be constructed, it was meant to show possibilities.

When questioned by the Board, Mr. Haberman stated that the grader, gravel truck, loader and small tractor are all personal equipment purchased to maintain the yard, and that K&R Inc. owns three pickup trucks.

When questioned by the Board, Mr. Haberman indicated that he is the owner of K&R Inc. and resides on the property. He added that the additional letter of support submitted at the hearing was from the adjacent neighbour to the west.

When questioned by the Board, Mr. Haberman said that on rare occasions the backup beepers may have been audible in the early morning or late evening. He has tried to remedy this issue by keeping business hours limited to between 8:00 a.m. and 5:00 p.m. The personal equipment on the property does not have backup alarms.

When questioned by the Board, Mr. Haberman stated that a lean-to would echo sound back into the site and would provide visual and noise abatement.

When questioned by the Board, Mr. Haberman, answered that the portion in the middle of the site is used for storage of material. He indicated that the materials stored in this area were dirt matting and blocking.

When questioned by the Board, Mr. Haberman said that there is one employee in addition to himself and his family on site. During periods when mats and blocking are being transported there may be up to four additional employees, loaders and truck drivers.

Submission in Support of the Appeal, Marjorie Wieben

Ms. Weiben stated that she is an employee of K&R Inc. She submitted the following:

- The truck drivers who come to the site to move materials are not employees of K&R Inc., they are contractors brought in only for this purpose. She estimated that there are approximately 40-50 truck movements per year, but added that this can vary.
- Mr. Haberman is not accepting anymore pipe.
- A lean-to would address the issues brought forward.
- The aerial photo from 2015 shows more equipment than the 2016 aerial photo.
- Mr. Haberman received a weed notice, so he disced his property, he then received a complaint for noise related to the discing.
- Mr. Haberman received a complaint when he was filling in potholes.
- Ms. Wieben said that she thinks some of the photos submitted for the agenda package were taken from the Appellant's property.
- When the initial Application was put forward, it was due to a stop order in June of 2016. At that point they were advised to put forward an application for storage of the additional matting.

Submission in Support of the Appeal, Dong Liu

Ms. Lui stated that she is Mr. Haberman's wife and made the following remarks:

- She agreed with the statements made by Mr. Haberman and Ms. Weiben.
- She feels that the development is not causing any environmental disturbance, and has noticed an increase in wildlife since they moved in.

Submission in Opposition to the Appeal, Charlotte Kinash-McNeill

Ms. Kinash-McNeill indicated that she is an adjacent neighbour in Wilderness Heights. Her dwelling is located behind the shop. Ms. Kinash-McNeill made the following statements:

- She feels that the use is industrial, also equipment operates from early morning to late evening.
- Backup alarms are an annoyance, the constant noise from backup alarms and operations on the site have made it so that she cannot enjoy her yard or have windows open in her home.
- When Mr. Haberman was cleaning the dirt matting over the summer it made endless pounding noises that were a disturbance.
- The view from her backyard is unsightly.
- Partying and fireworks noises come from the shop until late hours of the evening.
- Property values in the neighbourhood will go down as a result of the operation.

When questioned by the Board, Ms. Kinash-McNeill said that in her opinion there was still equipment on site during summer, and that Mr. Haberman would have needed the equipment to clean the matting.

Submission in Opposition to the Appeal, Brent Adams

Mr. Adams stated that he is an adjacent neighbour. He submitted the following:

- He has been an industrial welder for 20 years and knows the equipment. He feels that the equipment on the site is of an industrial nature.
- The noise is frustrating, his wife is a stay at home mom of small children who have been woken up early in the morning and evening due to the noise.
- He is also concerned about the impact on property value.

Submission in Opposition to the Appeal, Ray Sperling

Mr. Sperling is an adjacent neighbour. He made the following comments:

- His house is 50 yards from the pipe storage area and less than 100 yards from Mr. Haberman's backdoor.
- The site is an eyesore.
- The noise of backup beepers and banging/vibration caused by the site is affecting his family's everyday life.
- He believes the road access is insufficient for the large trucks that come and go from the property.
- Has been employed by the oil and gas industry for the last 20 years. His understanding is that it would cost more to haul the pipe to the site than the pipe is worth, this lead him to believe that the Appellant is storing the pipe for an oil and gas company.
- He is annoyed with the situation, and the fact that it has been going on for so long.

Submission in Opposition to the Appeal, Greg Mohr

Mr. Mohr lives at the top of the hill in Wilderness Heights. He submitted the following:

- Due to the high location of his house he believes sound travels up to his home.
- When he purchased his property he was assured there would be no commercial or industrial operations on the site.
- He has invested over one million dollars in his home and feels that the value of his home is in jeopardy because of the development.
- He has noticed a decrease in wildlife since the business moved in.
- The business operates odd hours, his wife stayed home after major eye surgery and couldn't keep the windows open because of noise coming from the site.
- The mats dropping on the ground sound like a cannons being fired.
- He feels that allowing this development to continue will cause business creep into the area.
- Road safety is a concern as the visibility is bad, and there has been one fatal crash near the corner.
- Noise abatement needs to occur before the stop order is lifted, a berm would be preferable.
- He feels that the Appellant is not attempting to be a good neighbour, and that if he wished to be a good neighbour he wouldn't operate late at night, work through the weekend or create a disturbance for the residents who were there first.
- Mr. Mohr had concerns about the process Parkland County used in notifying residents. He felt it was unfair that he received notice of the hearing on December 23, 2016 and County offices were closed until January 3, 2017. He felt that this inhibited his ability to be part of the process.

The Chairperson asked that the Clerk explain the timeline of the notifications. The Clerk explained that notification letters were sent out as soon as a hearing date was set. He agreed that the timing was unfortunate over the Christmas Holiday, but assured that all legislated timelines were met.

The Board then viewed the video submission of Mr. Adams, which captures the view from his backyard, and noise from the development taken mid-day.

Closing Remarks of the Appellant

Mr. Haberman said that in regards to the video submission of Mr. Adams, the backup alarms are used for safety, and are required to be hooked up when loading a commercial truck. He disputed the comments suggesting that the business operates at all hours of the night. He acknowledged that perhaps he should have gone to introduce himself to the neighbours and ask if they were comfortable with his business, his thought was that if there was a disturbance someone would have come to tell him. He said that the mats were not moved around the site until September-October, and most have been taken to a work site. He has not removed any trees from his property, except for a walking trail on the west end of the property. Mr. Haberman reiterated that he is attempting to get the pipe removed from his property.

The Chairperson asked the affected parties if they had 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 6:00 p.m.



CHAIRPERSON