

AGENDA

SUBDIVISION AND DEVELOPMENT APPEAL BOARD LEDUC COUNTY COUNCIL CHAMBER, COUNTY CENTRE, NISKU, ALBERTA

Thursday, September 13, 2018

1. **Order and Roll Call** – 9:00 a.m.
2. **Agenda Adoption**
3. **Adoption of Previous Minutes**
 - * July 19, 2018 Subdivision and Development Appeal Board Meeting
4. **Subdivision and Development Appeal Hearing**
 - * a) 9:00 a.m. D18-145 Appeal by Gregor and Alla Shwarzman – Leave as Sited
Roll #5550011 Dwelling, Secondary (1000 sq. ft.) on Lot 2, Plan 9323566,
Pt. SE 10-51-24-W4th (51108 Rge Rd 242A)
 - * b) 10:00 a.m. D17-330 Appeal by Isse Omar, Downtown Islamic Association
Roll #5600070 Change of Use – Residential to Religious Assembly
(Accessory Building – 297.29 to Prayer Center; House to
Parsonage) on Lot 6, Plan 9722422, Pt. NE 12-51-25-W4
(51164 Rge Rd 250), Miller Subdivision
5. **Next Meeting Date** – September 20, 2018
6. **Adjournment**

* Legend
Items Attached To Agenda



MINUTES OF THE SUBDIVISION AND DEVELOPMENT APPEAL BOARD MEETING, LEDUC COUNTY, HELD ON THURSDAY, SEPTEMBER 13, 2018 IN THE COUNCIL CHAMBER OF THE COUNTY CENTRE BUILDING, NISKU, ALBERTA.

Order and Roll Call

The meeting was called to order at 9:03 a.m., Thursday, September 13, 2018 by Chair Mary-Ann McDonald with Board Members Shirley Jolly, Pat Rudiger, Doug Ruel and Larry Wanchuk present.

Also present were Mr. Garrett Broadbent, Clerk of the Subdivision and Development Appeal Board; Ms. Joyce Gavan, Recording Secretary; Mrs. Charlene Haverland, Manager of Development Services; Mr. Greg McGovern, Planner 1 and Mr. Colin Richards, Team Lead Development..

Present as well were 3 other individuals.

Agenda Adoption

63-18 Board Member Jolly -- that the Agenda for the September 13, 2018 Subdivision and Development Appeal Board meeting be accepted as circulated.

Carried

Previous Minutes – July 19, 2018 Subdivision and Development Appeal Board Minutes

64-18 Board Member Wanchuk -- that the July 19, 2018 Subdivision and Development Appeal Board meeting minutes be confirmed as circulated.

Carried

Appeal by Gregor and Alla Shwarzman whereby Development Permit Application D18-145 was refused to leave as sited Dwelling, Secondary (1000 sq. ft.) located on Lot 2, Plan 9323566, SE 10-51-24-W4 (A 51108 Range Road 242 A).

Chair McDonald called the hearing to order at 9:05 a.m. and introduced Board Members and staff.

Chair McDonald asked if any Board Member felt a need to step down from this hearing within the boundaries of Conflict of Interest, and there was no one.

Chair McDonald asked if anyone had any objection to any of the members of the Subdivision and Development Appeal Board hearing this appeal, and there was no objection indicated.

Chair McDonald explained the purpose of the hearing, the order of presentation and the procedures to be followed.

Chair McDonald then called upon the Clerk to introduce the subject of this appeal.

Mr. Garrett Broadbent, Clerk, advised of the appeal by Gregor and Alla Shwarzman whereby Development Permit Application D18-145 was refused by the Development Authority to leave as sited dwelling, secondary (1000 sq.ft.) located on Lot 2, Plan 9323566, SE 10-51-24-W4, (A 51108 Range Road 242 A). The reasons for appeal are as follows:

- 1) Wish this secondary dwelling for our son to live on there.



- 2) Pay higher property tax for this parcel of land (15.6 ac). Because Leduc County Assessment Department assessed this property as non-farmland and not agricultural land. Our property tax is estimated for residential.
- 3) Please let our son live in that secondary dwelling.
- 4) A copy of August 2, 2018 letter from Leduc County to Alla Shwarzman is submitted advising during annual property inspections there appears to be no evidence of any farming operations on the subject land. In order for this land to be assessed as farmland it must be farmed.

Mr. Broadbent advised the following information is attached for the Board:

- 1) Staff Report.
- 2) Notice of SDAB Hearing package dated August 14, 2018.
- 3) Notice of Appeal received August 13, 2018.
- 4) Development Authority Notice of Refusal dated July 31 2018 with refused site plan.
- 5) Two Adjacent landowner responses in opposition.
- 6) Key Plan.
- 7) Development Permit Application D18-145.
- 8) Air Photo.
- 9) 2002 Notice of Decision (D02-80) Conditional Approval.

The Board confirmed the appeal was submitted properly and acceptable to the Board.

Chair McDonald called upon the Planning and Development Department to provide background information.

Mr. Greg McGovern, Planner 1, provided a PowerPoint presentation relating to the appeal by Gregor and Alla Shwarzman, highlighting the following:

1. On July 31, 2018 the Development Authority refused Development Permit Application D18-145 for a secondary dwelling on the subject lands for the following reasons:
 - 1) The subject property is located within the Agricultural (AG) District, in which a Dwelling, Secondary is listed as a Discretionary Use on parcels less than 32.4 ha (80 ac) in size. The subject parcel is 6.3 ha (15.6 ac) in size. In accordance with Section 7.11.5(b) of the Leduc County Land Use Bylaw 7-08, on a lot between 2.0 ha (4.9 ac) and 32.4 ha (80.0 ac), a Dwelling, Secondary shall not include a detached dwelling; but may include a manufactured home; a garden suite; or a custodial suite on a discretionary basis. According to the Land Use Bylaw, the subject building is neither a custodial suite nor a garden suite.
 - 2) The proposed development contradicts a condition of the last approved development permit D02-80 issued on May 6, 2002. Permit No. D02-80 is a proposal to convert the subject building, a cottage into a personal storage building. In accordance with Condition #3 of the approved permit, *"The building shall be used only for the storage and maintenance of personal items belonging to the residents of the parcel. It shall not be used for any residential or commercial purposes."*
2. The subject property is located at the end of a cul-de-sac off Range Road 242A. The property is located 400 metres northwest of the Town of Beaumont and 1.4 kilometers south of the City of Edmonton. Development on the property consists of two detached dwellings and two accessory buildings (a shop and a detached garage). The surrounding lands are zoned Agricultural (AG) with the larger parcels being used for agricultural purposes. The

two acreage properties abutting the subject property to the north and west are each developed with a single detached dwelling which lends a residential character to the lands immediately surrounding the subject property. The nearest neighbouring dwelling is located 30 metres to the immediate west.

3. In accordance with Section 7.11.5(b) of the Leduc County Land Use Bylaw 7-08, on a lot between 2.0 ha (4.9 ac) and 32.4 ha (80 ac) a dwelling, secondary shall not include a detached dwelling; but may include a manufactured home; a garden suite; or a custodial suite on a discretionary basis. Photos were submitted showing the dwellings on the subject site. A site inspection was conducted by Planning and Development staff which confirmed the detached dwelling is not a manufactured home.
4. The subject property is designated as an Agricultural (AG) District in which a dwelling, secondary is listed as a Discretionary Use on parcels less than 32.4 ha (80 ac). The subject property is 6.3 ha (15.6 ac) in size.
5. Definitions in accordance with Part 11 of the Land Use Bylaw 7-08:

Dwelling Secondary means an additional dwelling that is ancillary to a dwelling, principal on the same lot, and may include a garden suite, secondary suite, manufactured home or custodial suite.

Custodial Suite means a dwelling within a non-residential building and intended for use by persons employed to provide on-site security and/or maintenance of land, buildings, animals or equipment.

Garden Suite means a dwelling, secondary with or without permanent cooking facilities, separate from the principal dwelling and intended as temporary accommodation for specified persons associated with the residents of the principal dwelling as farm help or in a care-giving or domestic capacity.

In accordance with Section 7.8.4 of the Land Use Bylaw, a gross floor area of a garden suite shall be no less than 37.2 sq. m (400 sq. ft.) and no more than 65 sq. m (700 sq. ft.). A recent assessment report dated June 15, 2018 reveals the secondary dwelling to be slightly larger than the application stipulates at 106.8 sq.m (1,150 sq. ft.). This renders the property to be 41.8 sq. m (450 sq. ft.) larger than the Land Use Bylaw permits for a garden suite property.

6. The history of the subject property is as follows:
 - Permit No. D98-209 – in July, 1998 a permit was issued to allow for an existing residence (the subject building – being the only dwelling on the property at that time) two trailers, storage of industrial supplies and a home occupation.
 - Permit No. D98-399 – in November, 1998 a development permit was issued for a 1,800 sq. ft. accessory building for the storage of industrial safety supplies associated with the home business.
 - Permit No. D01-355 – in October, 2001 a development permit was issued for single family dwelling with attached garage, which is currently the principal building on the subject property. This permit was issued on the condition (#3) that:

“within 30 days after occupancy of the proposed dwelling, the existing dwelling shall be completely removed from the site unless another development permit has been issued by this office approving an alternate use for the building as an accessory to the residential development.”

- Permit No. D02-80 – in May, 2002 a permit was issued to convert the cottage (subject building) into a personal storage building. The permit was issued with conditions requiring the landowner to remove all cooking facilities from the building by May 31, 2002 and to ensure the building be used for storage of personal belongings only and not for any residential or commercial purposes.
 - In July, 2002 the landowners were given an extension to the May 31, 2002 deadline to remove all cooking facilities from the cottage. The building was permitted to be used as a temporary residence until November 30, 2002 after which time the building had to be converted to a storage building in accordance with Development Permit D02-80.
7. In accordance with Section 3.4.2 of the Land Use Bylaw 7-08, notification of all discretionary permit applications shall be sent to adjacent landowners. Leduc County received two letters from adjacent landowners in response to the referral letter mailed out on July 8, 2018. The respondents are both opposed to the proposed development and describe a history of non-compliance with previous permits. Other concerns raised cite dog attacks, safety concerns, illegal businesses operating from the subject property, excessive traffic and nuisance.
 8. On June 15, 2018 the appellants submitted a development permit application to leave as sited a secondary dwelling, manufactured home. The appellants submit that the secondary dwelling qualifies as a manufactured home and should be treated as a supportable Discretionary Use. On July 4, 2018 the subject building was inspected by a Leduc County Safety Codes Officer, who confirmed that the building is not a manufactured home or a ready-to-move structure. The building was deemed to be a “dwelling, detached”. Following the inspection the appellants amended the development permit application to remove the reference to a manufactured home from the proposal.
 9. The appellants request that the secondary dwelling be allowed to remain in order to provide their son with a place to live. It is stated that the secondary dwelling should be permitted for the fact that the subject property, despite being designated as an Agricultural District, is being assessed as “non-farmland” and the property is being taxed at a residential rate. With respect to this, taxation is not a material consideration in planning decisions, however correspondence from the County’s assessment department confirms that as no agricultural operation occurs at the subject property, the property cannot be taxed at an agricultural rate.
 10. Notwithstanding the reasons provided in the appellant’s grounds of appeal, the Development Authority maintain that the refusal was issued correctly and that the proposal does not meet the requirements of the Land Use Bylaw. The subject building is a secondary detached dwelling which is not a permissible building type on a parcel less than 32.4 ha (80 ac). In accordance with historical decisions, the subject building is permitted to be operated solely as an accessory building for storage and should only be utilized for this purpose.
 11. In accordance the Planning and Development Department recommends that the Subdivision and Development Appeal Board uphold the decision by the Development Authority to refuse Development Permit D18-090 for the reasons outlined in the Notice of Decision.

Chair McDonald asked Board Members if there were any questions of the administrative staff.

In response to a question by a Board Member, clarification was provided with respect to the letters of objection in that there are two owners in opposition.

Chair McDonald called upon the Appellant(s) to speak to the proposed development.

Mr. Gregor Shwarzman, Appellant, provided the following information:

1. Stated he resides as an immigrant from Russia and has been in Canada for 49 years. Have worked hard to live in this country and understands there are rules and regulations to reside here, however every law applies to specific cases.
2. Bought this subject property 20 years ago as bare land and one residence. Lived in that original house for 5 years then built a new house.
3. Now there is an extra house which sits empty; it is insured and heated.
4. Have a son moving from Calgary who wants to move into this empty residence.
5. Ask that the son be allowed to live in the subject dwelling.
6. The son will help us look after the property.

Chair McDonald asked if there were any questions by the Board Members of the appellant.

In response to questions by Board Members, Mr. Shwarzman advised of the following:

1. The main house is rented out to another party.
2. Applied to live in the new house in 2001.
3. Understood that the other house was to be removed, however my daughter required a home to live in and asked the County if that was ok for a temporary time and was given permission.
4. The house did sit empty for a time.
5. The heating stove in the living room was removed due to being a fire hazard; but never removed the kitchen.

Mrs. Charlene Haverland, Manager of Development Services, provided clarification that through the Leduc County Safety Codes, an inspection was conducted and the stove was identified as a fire hazard. The stove was removed in follow-up and then the file was closed. Somewhere after that time the stove was put back in without the County being aware.

Mr. Shwarzman continued with the following clarification in response to questions:

6. After 2002 the subject house was rented out periodically and the heating on property was reactivated.
7. Was not aware this was not supposed to happen.
8. We just wanted to make a living and didn't think about the stipulations required by the County.

Chair McDonald called upon anyone in attendance to speak in support or against the appeal.

Mr. Dave Munro, adjacent property owner, residing at 51108C – Range Road 242A, spoke against the proposed development providing the following information:

1. Mr. Munro provided a written submission from George & Liz Reid (51127 RR 242A) and Shane & Jessica McLennan (51111 RR 242A) adjacent landowners in opposition to the proposed development.
2. As stated by Mr. Shwarzman, we do have bylaws which are here for a purpose; however he has not followed them by his past actions.
3. Have lived at my residence for 4 years now with numerous complaints for the subject lands being rented out to various tenants and uses of the property:
 - dog training facility within the shop; while the house was being leased to separate owners, the shop was leased as a dog training facility causing excessive traffic on

- property. Numerous complaints were lodged and the County responded. There was no business license in effect by the County. They were removed from premises shortly after.
- Then another tenant moved signing a one year lease and owner of a construction company and used the subject structure as an office and storage of goods.
 - There have been 3 rental incomes off this subject property that Mr. Shwarzman benefits from.
 - Three men moved in which resulted in them shooting guns on the property. The principal resident renters then lodged a complaint to the R.C.M.P. which resulted in stolen goods removed from the property. Some of those belongings landed onto my property so had to involve the R.C.M.P. once again.
 - A single mother resided there with a young child and 2 larger dogs; one of the larger dogs came onto my property and killed our small lap dog.
4. When the County became involved as a result of their actions taken, we as adjacent landowners were not notified so assumed that the action was rectified.
 5. There has been one thing after another. There is no control of activity on property as the Shwarzman's do not reside on the property.
 6. There is only one access card to the landfill and that is with the main residents of the home. As a result garbage is scattered throughout the property.
 7. There has been no farming activity on property.
 8. I attempt to be friendly with renters and become aware of what is operating on the subject property.
 9. The appellants own other rental properties within the City of Edmonton and the County where the son can rent.
 10. Feel this property is being utilized to obtain additional revenue at the expense of the neighbours.
 11. Condition #3 of Development Permit D02-80 states "*the building shall be used for the storage and maintenance of personal items belonging to the residents of the parcel. It shall not be used for any residential or commercial purposes.*" This means that this should be restricted to the main residence of the property; however the quonset has been rented out for personal storage.
 12. Have received a threatening email from Gregor Shwarzman as a result of speaking with renters.
 13. Ask that the Board please stop this development.

In response to questions by Board Members, Mr. Munroe clarified that all three buildings are being rented out separately.

Chair McDonald asked if there was any additional correspondence submitted, and Mr. Broadbent advised there was none.

Chair McDonald asked if Technical Staff had any final comments, and there were none.

Chair McDonald asked the appellants if they had any final comments, and Mr. Shwarzman provided the following closing comments:

- Mr. Munro has lived adjacent to my property for four years and we have owned this property for 16 years. Question if there were any complaints prior to that; it appears that the complaints started as soon as they moved in.
- As far as the lady that trained the dogs, once we were aware had her move out. Any other incidents that we become aware of action is taken and they are asked to leave.

- The quonset is used for storage of safety supplies only now.
- The main house is occupied by tenants from Ontario.
- Just want the property for our son to reside on and maintain the property.

Chair McDonald asked the appellants if they felt they received a fair hearing, and Mr. and Mrs. Shwarzman responded affirmatively.

Conclusion of Public Hearing

Chair McDonald declared the Public Hearing concluded at 9:49 a.m.

Recess

The meeting recessed at 9:50 a.m. and reconvened at 10:01 a.m. with Chair Mary-Ann McDonald with Board Members Shirley Jolly, Pat Rudiger, Doug Ruel and Larry Wanchuk present.

Also present were Mr. Garrett Broadbent, Clerk of the Subdivision and Development Appeal Board; Ms. Joyce Gavan, Recording Secretary; Mrs. Charlene Haverland, Manager of Development Services; Mr. Colin Richards, Team Lead Development; and Greg McGovern, Planner 1.

Present as well were 7 other individuals.

Appeal by Isse Omar, Downtown Islamic Association, whereby Development Permit Application D17-330 was refused for a Change of Use – Residential to Religious Assembly (Accessory Building – 297.29 to Prayer Center; House to Parsonage) located on Lot 6, Plan 9722422, Pt. NE 12-51-24-W4 (51164 Rge Rd 250) Miller Subdivision.

Chair McDonald called the hearing to order at 10:02 a.m. and introduced Board Members and staff.

Chair McDonald asked if any Board Member felt a need step down from this hearing within the boundaries of Conflict of Interest, and there was no one.

Chair McDonald asked if anyone had any objection to any of the members of the Subdivision and Development Appeal Board hearing this appeal, and there was no objection indicated.

Chair McDonald explained the purpose of the hearing, the order of presentation and the procedures to be followed.

Chair McDonald then called upon the Clerk to introduce the subject of this appeal.

Mr. Garrett Broadbent, Clerk, advised of the appeal by Isse Omar, Downtown Islamic Association, whereby Development Permit Application D17-330 was refused for a change of use – residential to religious assembly (Accessory Building - 297.29 to Prayer Center; House to Parsonage) located on Lot 6, Plan 9722422, Pt. NE 12-51-25-W4, (61164 Rge Rd 250) Miller Subdivision. The reasons for appeal are as follows:

1. The use Religious Assembly is a discretionary use in Agricultural (AG) District.
2. Religious Assembly use is more compatible with the existing Residential use and will be as an accessory to the existing use (existing dwelling) and also with the surrounding residential existing development.
3. There is an existing house which will be kept as is.



4. Our congregation is very small and will have very small traffic and no impact to the community.
5. Our parcel of land is large and will keep it very neat and clean with additional landscaping to enhance its image.
6. We want to correct the development permit wording that we will be using the existing shop building for a prayer hall.
7. We assure you that we will comply with the requirement of Section 7.2 of the North Major Area Structure Local Area Structure Plan.
8. Request the Board Members to approve the development and we assure our cooperation with the Board and Community at Large.

Mr. Broadbent advised the following information is attached for the Board:

- 1) Staff Report.
- 2) Appeal received August 16, 2018.
- 3) Notice of SDAB Hearing package dated August 17, 2018.
- 4) Development Permit D17-330 Notice of Refusal dated August 2, 2018 with refused Site Plan.
- 5) Adjacent Landowner Responses (7).
- 6) Key Plan.
- 7) Development Permit Application D17-330.
- 8) Business Information Sheet.
- 9) Air Photo and Leduc County Mapping.

The Board confirmed the appeal was submitted properly and acceptable to the Board.

Chair McDonald asked the Clerk to read/present any other relevant information and/or correspondence, and Mr. Broadbent advised there was none.

Chair McDonald called upon the Planning and Development Department to provide background information.

Mr. Greg McGovern, Development Officer; or Colin Richards, Team Lead Development; provided the following information relating to the appeal by the Downtown Islamic Association:

1. On July 31, 2018 the Leduc County Development Authority refused an application for a change of use – residential to religious assembly (Accessory Building – 297.29 sq. m to Prayer Center; House to Parsonage) for the following reasons:
 - 1) The proposed development is a discretionary land use and does not comply with the Municipal Development Plan, or the North Major Area Structure Plan, and it therefore does not comply with Part 3.5.1 of the Land Use Bylaw 7-08.
 - 2) The proposed development is not compatible with surrounding residential and rural agricultural land uses and does not comply with Parts 3.5.1 and 3.5.2 of the Land Use Bylaw. The proposed development will impact local residents and farmers operating in the area. Local residents expressed concern about the impact of increased traffic volumes on local roads.
 - 3) The proposed development does not comply with Section 2.2.1 of the North Major Area Structure Plan that requires orderly development in the plan area.
 - 4) According to the North Major Area Structure Plan, the subject land is designated "Future Residential". Section 7.2 directs that *"although the land use strategy envisions that over a long period of time residential uses will predominate in the plan area, over*

the short to medium term residential development will be directed to areas allocated as Residential Estate and Country Residential.” The proposed development should not be approved until the short to medium term areas have been fully developed and infrastructure has been extended.

- 5) Section 7.2 of the North Major Area Structure Plan requires that the development of each “neighbourhood” is to be guided by more detailed, local area structure plans and/or outline plans. The development should be part of a Local Area Structure Plan to integrate the facilities with future residential land uses.
2. The subject property is located off Range Road 250 approximately 300 metres south of Township Road 512 where it meets the south boundary of the City of Edmonton. Development on the property consists of one detached dwelling and one accessory building (a shop). The subject property is located within a multi-lot subdivision in the Agricultural (AG) District. The surrounding lands are mostly development as residential acreages and the larger lots farther to the east, south and west are currently used for agricultural purposes.
3. A search of the planning history of the subject property reveals that Permit No. D98-106 in July, 1998 was issued to allow for an existing residence and the existing storage shop.
4. In accordance with Section 3.4.2 of the Land Use Bylaw, notification of all discretionary permit applications shall be sent to adjacent landowners. Leduc County received 7 letters from adjacent landowners in response to the referral notification. The respondents are all opposed to the proposed Religious Assembly and cite issues such as the negative impacts to Range Road 250 (increased traffic volumes and damage to the road surface), inadequate water and sewer infrastructure to accommodate the development, negative impacts to the surrounding development in terms of noise, decreased walkability, loss of privacy and diminished property values.
The respondents also state that the subject property is too small to accommodate the Religious Assembly even with a slight expansion and that it be suited for a property zoned for a commercial uses. They also mention there is already existing Religious Assembly uses located in their neighbourhood and one respondent suggests further development of a religious assembly uses should be postponed until after annexation with the City of Edmonton to see how the proposal fits within an existing master plan.
5. The City of Edmonton was notified of this development proposal and responded by advising that further planning will take place in this region in order to accommodate future development and address servicing and transportation issues. They further advise that the subject property is located along a roadway that may be impacted by a future LRT route.
6. In response to the appeal of this decision, the Development Authority maintains that the decision was correctly issued, as was the application of appropriate policies and regulations to each of the reasons for refusal.
7. In examination of each ground of appeal as submitted by the appellant, the Development Authority provides the following:

Ground of Appeal Number 1 – “*The Use of Religious Assembly is a discretionary use in the Agricultural (AG) District*”.

In accordance with Section 9.1.3 of Land Use Bylaw 7-08, Religious Assembly is listed as a Discretionary Use and may be permitted provided the development proposal meets the requirement of the Land Use Bylaw. As mentioned above, the proposed development does not comply with the Municipal Development Plan, or the North Major Area Structure Plan, and it therefore does not comply with Parts 3.5.1 of Land Use Bylaw 7-08.

Ground of Appeal Number 2- *“Religious Assembly use is more compatible use with the existing Residential use and will be as an accessory to the existing use (existing Dwelling) and also with the surrounding Residential existing development”.*

Administration does not deem the proposed use to be compatible with the surrounding development, nor does it regard the proposed use to be an example of orderly development. Administration anticipates that the proposed development, and the intensity of its use, would negatively impact local residents and farmers, some of who expressed concern for the impact the use will have on local infrastructure.

Ground of Appeal Number 3 – *“There is an existing house which will be kept as is”.*

The existing detached dwelling was approved under a separate development permit issued in 1998. The detached dwelling was not considered as a reason for refusing development permit application D17-330.

Ground of Appeal Number 4 – *“Our congregation is very small and will have very small traffic and no impact to the community.”*

The proposed Religious Assembly, which would accommodate as many as 100 worshippers on a weekly basis, would negatively impact the surrounding area. In accordance with Section 3.5.1 of Land Use Bylaw 7-08, the compatibility of the proposed development with surrounding lands (in terms of function, form and scale) was considered and deemed a reason to refuse the application.

Ground of Appeal Number 5 – *“Our parcel of land is large and will be kept in a very neat and clean with additional landscaping to enhance its image.”*

The parcel is five acres in size and the proposed prayer space is located within 150 metres of three neighbouring dwellings on adjacent parcels. Landscaping, natural buffering and property maintenance were not cited as reasons for refusing permit application D17-330. The provision for additional landscaping or yard maintenance has no bearing on the decision to refuse this application.

Ground of Appeal Number 6 – *“We want to correct the development permit wording that we will be using the existing shop building for a prayer hall.”*

Changing the wording of the proposed development from Prayer Center to Prayer Hall does not alter the use class of Religious Assembly.

Ground of Appeal Number 7 – *“We assure you that we will comply with the requirement of Section 7.2 of the North Major Area Structure Plan.”*

Section 7.3 of the North Major Area Structure Plan requires that development be guided by a local area structure plan and/or outline plan. In order to be compliant with this requirement, Development Permit application D17-330 would have to be submitted in advance of, and in accordance with, a previously approved area structure plan or outline plan.

Chair McDonald asked Board Members if there were any questions of the Development Authority.

In response to questions by Board Members, Mr. McGovern advised of the following:

- There are no municipal services on the subject site.
- Parking required for a use of this size is identified on the site plan. The Land Use Bylaw stipulates the parking stall requirement; the appellants have submitted up to 40 cars and indicate that many vehicles would not arrive any time.

- The owner is the Downtown Islamic Association as identified on the County record.

Chair McDonald called upon the Appellant(s) to speak to the proposed development.

Mr. Muhammad Saeed, President of RCD Consulting, on behalf of the Appellants, introduced six attendees in support of the appeal, and provided the following information:

- 1) This development is not proposing to build any new buildings; everything already exists and the use will be used as identified on the site plan.
- 2) In our culture a residence and religious assembly goes hand in hand.
- 3) The Downtown Islamic Association (Somali Community) purchased this property in 2017.
- 4) Since we purchased property everything is neat and clean and nothing has happened so far.
- 5) Have spoken with neighbours to ensure kindness and respect. We will not disturb the neighbours due to religious belief.
- 6) The concern expressed by neighbours with traffic can be addressed as only 10 – 15 vehicles maximum is required once a week (on Friday). The Friday prayer takes a maximum of 1 hour and is between 1:30 – 2:30 p.m. which is during working hours and not busy at that time frame; traffic is substantially less for the neighbourhood.
- 7) The parking requirement is one parking stall for 5 seats; if the maximum number of 100 is used will require 20 parking stalls (which will not go to that limit); so there would be no negative impact.
- 8) Section 7.3 of the North Major Area Structure Plan requires that development be guided by a local area structure plan; are looking at 15 – 20 years down the road to see any development in this area take place.
- 9) Sections 3.4.6 of the Leduc County Land Use Bylaw states the Development Authority may approve, with or without conditions, in accordance with Section 3.6.1, an application for a development permit that does not comply with the bylaw. There are other religious assemblies existing on other agricultural lands e.g. Sikhs temple, religious buildings. This proposed use is compatible and we will address concerns by neighbours.
- 10) Are not building any new building and using the existing metal storage building for an accessory use.
- 11) This is for temporary use and when and if the community and membership increases, we will find another place to meet the needs.
- 12) We want to work together with the community and will not be a negative impact.
- 13) Submitted one letter of support from Mario Bevilacqua dated September 12, 2018; Mr. Bevilacqua resides across the street from the proposed development at 51165 – Range Road 250 and expressed it would be a good idea to have such a facility which will benefit the local community and the future generations.

Chair McDonald asked if there were any questions by the Board Members of the appellants.

In response to questions by Board Members, the following information was provided by Mr. Saeed and others in attendance:

- The maximum number of people would not exceed 15 and only on Fridays.
- Would be used five times per day (one before sunrise then throughout the day with last one in evening) and used seven days per week.
- The accessory building is used for worship; and the house would be used by a permanent resident leading the prayer.



- It would be acceptable to be granted a temporary permit given the anticipated annexation of these lands to the City of Edmonton in 2019.
- It will take a long time to exceed the number of 15 attendees due to the distance from Edmonton; the majority of worshippers own medical practice in Edmonton.
- Understand this is in the annexation area of Edmonton; that is why agreeable to a temporary permit approval.

Chair McDonald asked if anyone wished to speak in support or opposed to the proposed development.

The following individuals spoke in support of the proposed development:

- 1) Dr. Osania Namaruish is a community member and advised he has a medical clinic within Edmonton and desires to be close to the proposed worship location; the first step was taken to purchase this property and are very supportive of this proposed development.
- 2) Dr. Ashruf Shibarny is a community member and also have a medical practice within south Edmonton; appreciate if this would be accepted to live in close proximity and the opportunity to attend the Friday prayer for a convenient commute.

Chair McDonald asked administrative staff if there was any additional correspondence submitted, and there was none.

Chair McDonald asked if Technical Staff had any final comments.

Mr. McGovern provided the following closing comments:

- The Development Authority has processed and reviewed the proposed development and deemed the proposed use not to be compatible with planning process and land use regulations.
- The proposed development is designated as Agricultural; however this is a multi-lot subdivision and proposed use is not compatible with the neighbouring properties.
- The proposed development requires a local area structure plan to identify future uses of religious assemblies and address the traffic impact. This would allow the community to provide input.
- As the area is within the City of Edmonton annexation area; the owners do have an assembly in Edmonton and urge the Board to postpone this consideration until Edmonton takes ownership.

Chair McDonald asked the appellant if he had any final comments, and the following final comments were provided:

- The anticipated City of Edmonton annexation is three months away; the County has before them for consideration this application and ask for approval prior to the takeover by the City of Edmonton.
- Asking for temporary approval; the proposed development would not harm anyone and will be properly maintained.
- No new buildings will be constructed and will utilize what is there.
- Regarding the traffic concerns, the proposed location is three blocks away from 41 Avenue and RR 250; the times travelling are opposite of heavy traffic
- Across the street is the adjacent landowner who has submitted a letter of support.

Chair McDonald asked the appellants if he felt they received a fair hearing, and Messrs. Saeed and Omar responded affirmatively.

Conclusion of Public Hearing

Chair McDonald declared the Public Hearing concluded at 10:47 a.m.

Mrs. Haverland; Mr. McGovern; Mr. Richards; and 7 Other Individuals

Mrs. Haverland; Mr. McGovern; Mr. Richards; and 7 individuals exited the Council Chamber at 10:47 a.m.

In Camera

65-18 Board Member Jolly -- that the Subdivision and Development Appeal Board meet In Camera.

Carried

The In Camera session commenced at 10:48 a.m.

Revert to Subdivision and Development Appeal Board Meeting

66-18 Board Member Rudiger -- that the In Camera session revert to the Subdivision and Development Appeal Board meeting.

Carried

The In Camera session reverted to the Subdivision and Development Appeal Board meeting at 12:07 p.m.

Appeal by Gregor and Alla Shwarzman whereby Development Permit Application D18-145 was refused to leave as sited Dwelling, Secondary (1000 sq. ft.) located on Lot 2, Plan 9323566, SE 10-51-24-W4 (A 51108 Range Road 242 A).

67-18 Board Member Jolly -- that Subdivision and Development Appeal Board disallow the appeal by Gregor and Alla Shwarzman and uphold the refusal of Development Permit Application D18-145 by the Development Authority to leave as sited dwelling, secondary (1000 sq.ft.) located on Lot 2, Plan 9323566, SE 10-51-24-W4, (A 51108 Range Road 242 A).

Findings of Fact

- 1) In May, 2002 a permit was issued to convert the cottage (subject building) into a personal storage building. The permit was issued with conditions requiring the landowner to remove all cooking facilities from the building by May 31, 2002 and to ensure the building be used for storage of personal belongings only and not for any residential or commercial purposes.
- 2) In July, 2002 the landowners were given an extension to the May 31, 2002 deadline to remove all cooking facilities from the cottage. The building was permitted to be used as a temporary residence until November 30, 2002 after which time the building was required to be converted to a storage building in accordance with Development Permit D02-80.
- 3) The appellant has not complied with the 2002 Development Permit Conditions.
- 4) The applicant has requested that the accessory building continue to be used for residential purposes.
- 5) The appellant does not reside on the subject property.



6) The appellant indicated the following:

- The subject building has been rented out since 2002; indicating that the use is an occupied rental accommodation.
- The kitchen has not been removed as stipulated within Development Permit D02-80.

Reasons for Refusal

Development Permit Application D18-145 is refused for the following reasons:

1. The subject property is located within the Agricultural (AG) District, in which a Dwelling, Secondary is listed as a Discretionary Use on parcels less than 32.4 ha (80 ac) in size. The subject parcel is 6.3 ha (15.6 ac) in size. In accordance with Section 7.11.5(b) of the Leduc County Land Use Bylaw 7-08, on a lot between 2.0 ha (4.9 ac) and 32.4 ha (80.0 ac), a Dwelling, Secondary shall not include a detached dwelling; but may include a manufactured home; a garden suite; or a custodial suite on a discretionary basis. According to the Land Use Bylaw, the subject building is neither a custodial suite nor a garden suite.
2. The proposed development contradicts a condition of the last approved development permit D02-80 issued on May 6, 2002. Permit No. D02-80 is a proposal to convert the subject building, a cottage into a personal storage building. In accordance with Condition #3 of the approved permit, *"The building shall be used only for the storage and maintenance of personal items belonging to the residents of the parcel. It shall not be used for any residential or commercial purposes."*

and further, the appellants (landowners) shall:

- 1) immediately cease all unauthorized use of the accessory buildings in accordance with the 2002 permit condition requiring the landowner to remove all cooking facilities from the building and to ensure the building be used for storage of personal belongings only and not for any residential or commercial purposes; and
- 2) by October 31, 2018 the appellant shall restore the accessory building back to its original permitted use as a discretionary personal storage building in accordance with Development Permit D02-80.

Carried

Appeal by Isse Omar, Downtown Islamic Association, whereby Development Permit Application D17-330 was refused for a Change of Use – Residential to Religious Assembly (Accessory Building – 297.29 to Prayer Center; House to Parsonage) located on Lot 6, Plan 9722422, Pt. NE 12-51-24-W4 (51164 Rge Rd 250) Miller Subdivision.

68-18 Chair McDonald -- that the Subdivision and Development Appeal Board allows the appeal by Isse Omar, Downtown Islamic Association, and conditionally approves Development Permit Application D17-330 for a Change of Use – Accessory Building – 297.29 to Prayer Center; House to Parsonage located on Lot 6, Plan 9722422, Pt. NE 12-51-24-W4 (51164 Rge Rd 250) Miller Subdivision.

Findings of Fact

- 1) There were six letters in opposition from adjacent landowners expressing concern about traffic, water and sewer, traffic impact, negative impacts to the surrounding development in terms of noise, decreased walkability, loss of privacy and diminished property values.

- 2) There was one letter of support submitted from the landowner across the street from the proposed development and two oral submissions in support from City of Edmonton residents.
- 3) The subject property is deemed to be within an Agricultural district; and is listed as a discretionary use within the Leduc County Land Use Bylaw.
- 4) The appellant(s) are aware this property is within the City of Edmonton annexation area.
- 5) The access into the subject property will be via Range Road 250 which is not an internal roadway into the Miller subdivision.
- 6) The appellant(s) indicated there will be a maximum of 10 – 15 vehicles per day.

Development Permit Application D17-330 is approved subject to the following conditions:

1. The Approval is granted based on the information provided by the applicant for approved development only and no other development.
2. Approval is granted for a period of six (6) months. On or before March 31, 2019, the proposed development shall cease unless a development permit extending this time has been approved by Leduc County.
3. The parking area shall be maintained to reduce dust generation.
4. The development shall not cause any adverse drainage impact on adjacent properties or flooding of nearby ditches in excess of their capabilities.
5. The site shall be maintained in a neat and orderly manner including the containment of all construction materials and refuse, to the satisfaction of the Development Authority.
6. All new accesses, approaches or upgrades, including driveways required off of a Leduc County public roadway, as a result of the development shall first require an Access Application to be provided to the satisfaction of, and approved by Leduc County Public Works and Engineering.
7. The applicant/landowner shall provide firefighting access at all times to the satisfaction of Leduc County Fire Services.
8. Parking shall be provided in accordance with the provisions of the Leduc County Land Use Bylaw and as indicated on the site plan not to exceed 15 vehicles maximum.
9. No further development, expansion or change in use is permitted unless approved by Leduc County.

Failure to comply with any of the preceding conditions will render this permit null and void.

The applicant is also advised of the following:

- 1) This Development Permit is issued under the Leduc County Land Use Bylaw 7-08. It does not exempt you from compliance with any other municipal bylaw or statutory plan applicable to the approved development, any relevant federal and provincial statute or regulation, or any easement, covenant, agreement or contract affecting the subject lands.
- 2) The County administers the Safety Codes Act and you must obtain any Safety Codes (building, electrical, gas or plumbing) permit(s) required prior to commencing construction. Increased setback distances from property lines, and/or modifications to plans for proposed buildings may be required in order to achieve compliance under the Alberta Safety Codes Act.
- 3) To contact Leduc Public Works & Engineering at 780-979-6185 regarding approach approvals and Road Use Agreements as required.
- 4) To contact Leduc County Fire Services at (780) 955-7099 regarding compliance with Alberta Fire Code.



- 5) To contact Alberta Transportation regarding the required Provincial Road Site Development Permit.

Carried

Next Meeting

The next scheduled Subdivision and Development Appeal Board meeting will be held on Thursday, September 20, 2018 commencing at 9:00 a.m.

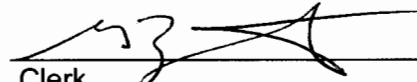
Adjournment

69-18 Board Member Wanchuk -- that the Subdivision and Development Appeal Board meeting be adjourned.

Carried

The Subdivision and Development Appeal Board meeting concluded at 12:15 p.m.


Chair


Clerk