

## **AGENDA**

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

**Friday, July 26, 2019**

1. **Order and Roll Call** – 9:00 a.m.
2. **Agenda Adoption**
3. **Adoption of Previous Minutes**
  - \* June 26, 2019 Subdivision and Development Appeal Board Meeting
4. **Subdivision and Development Appeal Hearing**
  - \* a) 9:00 a.m. D19-132 Appeal by Jacob & Alma Lange to development an  
Roll #1395020 Accessory Building Shop – 178.4 sq.m (1920 sq.ft.) on  
Lot 3, Block 1, Plan 1021843, Pt. SW 32-49-25-W4  
(49507 Range Road 255).
5. **Next Meeting Date** – at the call of the Chair.
6. **Adjournment**



#### Legend

- \* Items Attached To Agenda

**MINUTES OF THE SUBDIVISION AND DEVELOPMENT APPEAL BOARD MEETING, LEDUC COUNTY, HELD ON FRIDAY, JULY 26, 2019 IN THE COUNCIL CHAMBER OF THE COUNTY CENTRE BUILDING, NISKU, ALBERTA.**

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**Order and Roll Call**

The meeting was called to order at 9:02 a.m., Friday, July 26, 2019 by Chair Mary-Ann McDonald as Chair with Board Members Doug Ruel, Pat Rudiger, Rod Giles and Rick Smith present.

Also present were Ms. Joyce Gavan, Clerk; Lynn White Recording Secretary; Colin Richards, Team Lead Development; Ata Muhammad, Planner 1; and two other individuals.

**Agenda Adoption**

**36-19** Board Member Giles -- that the Agenda for the July 26, 2019 Subdivision and Development Appeal Board meeting be accepted as circulated.

Carried

**Previous Minutes – June 26, 2019 Subdivision and Development Appeal Board Meeting**

**37-19** Board Member Rudiger -- that the June 26, 2019 Subdivision and Development Appeal Board meeting minutes, be accepted as circulated.

Carried

**Appeal by Jacob and Alma Lange whereby Development Permit Application D19-132 was refused for the development of an accessory building shop on Lot 3, Block 1, Plan 1021843, Pt. SW 32-49-25-W4.**

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Chair McDonald called the hearing to order at 9:03 a.m. and introduced Board Members and staff.

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

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

Joyce Gavan, Clerk, advised of the appeal by Jacob and Alma Lange whereby Development Permit Application D19-132 was refused for the development of an accessory building shop – 178.4 sq.m (1920 sq.ft.) on Lot 3, Block 1, Plan 1021843, Pt. SW 32-49-25-W4.

The reasons for appeal are as follows:

1. Our acreage is a unique situation – to build a principal building (house) before building a shed is not a wise option for the following reasons:
  - a. We were told that a “ring road” around Leduc will happen in the future, possibly built on the north and south road of RR 255 on the west side of our acreage. It would not be a wise decision to build a quality home until that is sorted out.
  - b. We were informed that the area of this acreage is intended to be zoned Industrial. Building a nice “cold” shed to shelter our farm and acreage equipment (i.e. tractor, skid steer, lawn mower, flat deck trailer, antique care and miscellaneous farm and acreage items) makes good sense to us.
2. We have developed a beautiful acreage – an asset to our community and the County has received many compliments. We really need this shed to keep it that way.



Ms. Gavan advised the following information is attached for the Board:

- 1) Staff Report
- 2) Notice of SDAB hearing package dated July 11, 2019
- 3) Notice of Appeal received July 4, 2019
- 4) Notice of Decision (refusal) by Development Authority dated June 21, 2019
- 5) Refused Site Plan
- 6) Key Plan
- 7) Development Permit Application D19-132
- 8) Building Plans
- 9) Figure 6 – Future Transportation in the Intermunicipal Development Plan
- 10) Figure 10 – Policy Areas in the Intermunicipal Development Plan

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

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 the appellant(s) if they 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 called upon the Planning and Development Department to provide background information.

Ata Muhammad, Planner 1 provided the following information relating to the appeal by Jacob and Alma Lange:

1. The subject property is located approximately 1.4 km west of the City of Leduc, near the intersection of Range Road 255 and Highway 39. The parcel is an agricultural acreage and the southerly property line abuts Highway 39, while the access to the property is from Range Road 255. According to the County's Geographical Imagery System (GIS), the parcel includes tree stands, a dugout and few sea cans. There is no planning record for the outdoor storage of sea cans. The parcel has currently no principal building.
2. On June 21, 2019 the Leduc County Development Authority refused Application D19-132 for the following reason:
  - 1) Pursuant to Part Eleven – Definitions of the Land Use Bylaw, Accessory Building means a building that is incidental and subordinate to a principal building on the same lot. As there is no existing Principal Building on the lands the proposed building cannot be considered for approval under the accessory building use class.

The application was refused as it proposed the construction of an accessory building without a principle use or principle building being established on the property, contrary to the provisions of the Land Use Bylaw 7-08.

3. In accordance with Part 11 – Definitions of the Leduc County Land Use Bylaw 7-08, an Accessory Building is to be incidental and subordinate to a principal use or principal building on the same lot. At present, the subject lands are vacant and there is no principal building on the lands.

4. The purpose of creating smaller parcels in agricultural areas is to support residential uses within the Agricultural District. Accessory buildings such as shops and garages on smaller parcels are intended to support the principal residential use of the lands. The Land Use Bylaw defines garages and shops as accessory buildings and directs that their implementation shall be incidental and subordinate to a principal building on the site. The purpose of this requirement is to ensure that properties intended for residential use do not become alternative uses, such as business or storage premises.
5. In order for the Development Authority to consider an accessory building on the appellants property, a principal building and a prior residential use shall exist on the lands. Since there is no existing dwelling, which supports the residential use of the property, if the development is approved as proposed, it would not conform with the residential intent for smaller lots in the Agricultural (AG) District.
6. Within the appellants grounds of appeal, the appellant considers that to build a house on the property would not be a wise choice as a future road may be constructed on, or nearby to the subject property. In response to this, although the Intermunicipal Development Plan indicates a future roadway in the vicinity of the subject property, the exact location of that road network is indicative within the Plan and is envisaged as a medium-term project. As a result, the County does not consider this to be valid grounds for abandoning the envisaged residential use of the property.
7. The appellant also submits in the grounds of appeal that the subject property is intended for future industrial use, and therefore the construction of a storage building would align with this intent. In accordance with the Intermunicipal Development Plan, the subject property is situated within "Area H – IDP Reserve and Referral Area".
8. Area H is intended for lands that are currently outside of the 2044 time horizon of that Plan area, and therefore future land use scenarios of lands in this area have not yet been envisaged. In accordance with Part 5.9.2 of the IDP, existing small-scale rural residential land uses within this area should continue to be supported until such time that urban land uses and full municipal servicing has been developed within the area.
9. In summary, the Leduc County Land Use Bylaw 7-08 does not allow accessory buildings to be built prior to establishing a principal residential building on a small-scale agricultural property in order to ensure orderly development within the County and avoid conflicting land uses.
10. The Development Authority is of the opinion that the approval of an accessory building in the absence of a principal use is contrary to the purpose of the district as a residential property. In accordance with the above, the Development Authority request that the Subdivision and Development Appeal Board uphold the decision of the Development Authority and refuse Development Permit Application D19-132 for the reason outlined in the Notice of Decision.

Chair McDonald asked Board Members if there were any questions of administrative staff and there were none.

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

Mr. and Mrs. Jacob and Alma Lange, appellants, provided the following information:

1. We are in a unique situation. We sold the rest of the quarter with the house and buildings.



2. We have a fair amount of equipment and tools which need to be protected from the sun and rain. Rust is a problem as water gets in the bearings, not to mention bleaching.
3. Being a farmer, I like to keep everything under roof and protected. We have always done this.
4. I need a building where I can do my hobbies even when the weather is bad.
5. This building would allow us to lock up everything to protect it from theft.
6. This building will be a place where I can work on my antique equipment.
7. If the size is oversized, we can cut it down to County specifications.

In response to questions from Board Members, Mr. and Mrs. Lange advised of the following:

1. Now reside in Leduc in a condominium but go out to the acreage daily. We do not own the balance of the quarter; our farm is 1 mile east from Calmar and eight miles south.
2. This acreage is for retirement but we still actively farm the other property. Farm equipment is stored on the other property.
3. On this acreage, we have a lawn tractor, small tractor, rototiller, antique equipment, big flat deck trailer for hauling equipment back and forth, and other smaller items. Do not want to store these items at the other property because we use them every day and do not wish to run over to other place to get things.
4. It would be nice to have a shed to do hobbies and there is no coverage to store wood.
5. There is a little cabin on the property approximately 12' X 14'. Use the sea cans on site to store small tools.
6. Theft is a big thing right now; need a building to lock things up or they walk away.

Chair McDonald noted there was no one in attendance to speak for or against the proposed development.

Chair McDonald asked administrative staff to provide final comments.

Mr. Muhammad provided the following closing comments:

1. The Land Use Bylaw is the reason why this development was not approved.
2. The purpose of this property is for residential use. The Land Use Bylaw indicates that there must be a principal building before an accessory building is approved on the property.
3. Planning does not have permits for other buildings on the site.
4. The size of the building does not make a difference. It would still not conform to Land Use Bylaw as there is no principal dwelling located on site.

Chair McDonald asked the appellant(s) if they had any final comments, and Mr. and Mrs. Lange provided the following closing comments:

- If this development is not approved, I would like some direction how to keep equipment nice and orderly.
- We are avid gardeners who love and respect the land.
- Last year, we donated 65 pounds of tomatoes to the Food Bank. Want to continue to provide for ourselves and the less fortunate.
- Just want the shed so we can keep doing what we do best.

Chair McDonald asked the Clerk if there was any other relevant information and/or correspondence, and Ms. Gavan advised there was none.

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

### **Conclusion of Public Hearing**

Chair McDonald declared the Public Hearing concluded at 9:29 a.m.

### **Messrs. Muhammad and Richards; and Mr. and Mrs. Lange**

Messrs. Muhammad and Richards; and Mr. and Mrs. Lange exited the Council Chamber at 9:30 a.m.

### **In Camera**

**38-19** Board Member Smith -- that the Subdivision and Development Appeal Board meet In Camera.

Carried

The In Camera session commenced at 9:31 a.m.

### **Revert to Subdivision and Development Appeal Board Meeting**

**39-19** Board Member Smith -- 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 9:36 a.m.

### **Appeal by Jacob and Alma Lange whereby Development Permit Application D19-132 was refused for the development of an accessory building shop on Lot 3, Block 1, Plan 1021843, Pt. SW 32-49-25-W4.**

**40-19** Board Member Smith -- that the Subdivision and Development Appeal Board disallow the appeal by Jacob and Alma Lange and uphold refusal of Development Permit Application D19-132 for the development of an accessory building shop – 178.4 sq.m (1920 sq.ft.) on Lot 3, Block 1, Plan 1021843, Pt. SW 32-49-25-W4.

### **Findings of Fact**

- 1) There is no principal residence on the subject land.
- 2) The size of the property is 4.99 acres.
- 3) Jacob and Alma Lange maintain the property by going out regularly; request to build a shop for the safe storage and preservation of this equipment (lawn tractor, small tractor, rototiller, antique equipment, big flat deck trailer for hauling equipment back and forth, and other smaller items).
- 4) There is current development on the property which is not permitted, i.e. sea cans and a shed. The small shed is used as a cabin.
- 5) There is a transportation corridor in close proximity for future development (50 years), in accordance with the City of Leduc/Leduc County Intermunicipal Development Plan.
- 6) There were no letters of objection.

- 7) The subject property is designated within the Agricultural (AG) District of the Leduc County Land Use Bylaw 7-08. Pursuant to Part 9.1.1 of the Land Use Bylaw, the general purpose of this district is to provide primarily for larger agricultural operations, while at the same time providing for limited residential uses having a secondary role to agriculture, through the creation of smaller residential lots.

The Board considered the following sections of the Leduc County Land Use Bylaw 7-08:

1. Part 11 - Definitions:

*Residential Lot* means a lot intended for residential development as a principal use.

The Land Use Bylaw also defines Use, Principal; Principal Building; Accessory Building and Accessory Development.

*Use, Principal* means the primary purpose for which a building or site is used. There shall be no more than one principal use on a lot unless specifically permitted in this Bylaw.

*Principal Building* means a building which:

- (a) occupies the major or central portion of a site,
- (a) is the chief or main building among one or more buildings on the site, or
- (b) constitutes by reason of its use the primary purpose of the site.

*Accessory Building* means, for the purpose of administering the provisions of Part Nine – District Regulations, a building that is incidental and subordinate to a principal use or principal building on the same lot and is more than 10.0 sq.m (107.6 sq.ft.) in area or 2.0 sq.m (6.5 ft.) in height.

*Accessory Development* means a use or building that is incidental and subordinate to a principal use or principal building located on the same lot.

2. City of Leduc / Leduc County Intermunicipal Development Plan (IDP)

Within the IDP, the subject parcel is identified in Area H, IDP Reserve and Referral Area. This area is important to both municipalities because of the potential for future transportation infrastructure being planned by Alberta Transportation.

Reasons for Refusal

Development Permit D19-132 is refused for the following reason:

1. The proposed development is not in conformance with the Leduc County Land Use Bylaw No. 7-08:

Pursuant to Part Eleven – Definitions, *Accessory Building* means a building that is incidental and subordinate to a principal building on the same lot. As there is no existing Principal Building on the lands the proposed building cannot be considered for approval under the accessory building use class.

Carried

Next Meeting

The next scheduled Subdivision and Development Appeal Board meeting will be held on Thursday, August 15, 2019, commencing at 9:00 a.m.

**Adjournment**

**41-19** Board Member Ruel -- that the Subdivision and Development Appeal Board meeting be adjourned.

Carried

The Subdivision and Development Appeal Board meeting concluded at 9:41 a.m.



Chair



Clerk