

AGENDA

INTERMUNICIPAL SUBDIVISION AND DEVELOPMENT APPEAL BOARD (ISDAB) VIA LIVESTREAM / TELECONFERENCE (COUNCIL CHAMBER, COUNTY CENTRE, NISKU, ALBERTA)

Friday, April 24, 2020

1. **Order and Roll Call** – 9:00 a.m.

2. **Agenda Adoption**

3. **Adoption of Previous Minutes**

* February 27, 2020 Intermunicipal Subdivision and Development Appeal Board Meeting

4. **Subdivision and Development Appeal Hearing**

- * a) 9:00 a.m. D20-027 Appeal by Kelly Czuy/Lean Czuy relating to Development
Roll # 7001040 Permit D20-027 for an Accessory Building Garage -
92.9 sq.m (1000 sq.ft.) with Dwelling, Secondary Suite -
92.9 sq.m (1000 sq.ft.) with 4.78 m (15.68 ft.) variance to
front property line; and removal of two existing accessory
buildings (sheds) located at Lot 4A, Block 1, Plan
5353 NY, Pt. SW 1-48-27-W4 (30, 48031 Rge Rd 271,
Wizard Lake Estates)

5. **Next Meeting Date** – at the call of the Chair.

6. **Adjournment**


Legend

* Items Attached To Agenda

MINUTES OF THE INTERMUNICIPAL SUBDIVISION AND DEVELOPMENT APPEAL BOARD MEETING, LEDUC COUNTY, HELD ON FRIDAY, APRIL 24, 2020 IN THE COUNCIL CHAMBER OF THE COUNTY CENTRE BUILDING, NISKU, ALBERTA.

Order and Roll Call

The meeting was called to order at 9:00 a.m., Friday, April 24, 2020 by Chair Mary-Ann McDonald and Board Member Larry Wanchuk present. Present via teleconference were:

- Board Member Pat Rudiger
- Board Member Rod Giles
- Appellant Kelly Czuy/Leann Czuy

Also in attendance were the following administrative staff:

- Joyce Gavan, Clerk
- Greg McGovern, Planner 1, Development Services
- Grant Bain, Director, Planning and Development
- Lynn White, Recording Secretary
- Kent Pudlowski, Manager of Information Technology

Agenda Adoption

09-20 Board Member Wanchuk -- that the agenda for the April 24, 2020 Intermunicipal Subdivision and Development Appeal Board meeting be accepted as circulated.

Carried

Adoption of Previous Minutes – February 27, 2020

10-20 Board Member Rudiger -- that the February 27, 2020 Subdivision and Development Appeal Board minutes be confirmed as circulated.

Carried

Appeal by Kelly Czuy/Leann Czuy whereby Development Permit Application D20-027 was refused for an accessory building garage – 92.9 sq.m (1000 sq.ft.) with dwelling, secondary suite - 92.9 sq.m (1000 sq.ft.) with 4.78 m (15.68 ft.) variance to front property line; and removal of two existing accessory buildings (sheds) located at Lot 4A, Block 1, Plan 5353 NY, Pt. SW 1-48-27-W4 (30, 48031 Rge Rd 271) Wizard Lake Estates.

Chair McDonald called the hearing to order at 9:02 a.m. and provided introductory remarks.

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

Joyce Gavan, Clerk, advised of the appeal by Kelly Czuy/Leann Czuy whereby Development Permit Application D20-027 was refused for an accessory building garage – 92.9 sq.m (1000 sq.ft.) with dwelling, secondary suite - 92.9 sq.m (1000 sq.ft.) with 4.78 m (15.68 ft.) variance to front property line; and removal of two existing accessory buildings (sheds) located at Lot 4A, Block 1, Plan 5353 NY, Pt. SW 1-48-27-W4 (30, 48031 Rge Rd 271) Wizard Lake Estates.

The reasons for appeal are as follows:

1. The building doesn't hinder view from any surrounding neighbours.



2. Plans have been sent to neighbours as want to make sure this garage is accepted and nothing but positive feedback.
3. Adding value to neighbouring properties.

Joyce Gavan, Clerk, advised the following information is attached for the Board:

- 1) Staff Report and PowerPoint presentation
- 2) Notice of SDAB hearing package dated April 2, 2020
- 3) Appellant's notice of appeal received March 31, 2020
- 4) Notice of Development Authority decision (Refusal) dated March 26, 2020 with refused site plan
- 5) Development Permit Application D20-027
- 6) Site plan and drawings
- 7) Key Plan
- 8) Air Photo
- 9) Submission from Appellant, Kelly Czuy

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

Chair McDonald asked the appellant if he was comfortable with the holding of this appeal hearing via teleconference.

Kelly Czuy advised he is comfortable with holding the hearing via teleconference.

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 the appellant if he had any objection to any of the members of the Intermunicipal 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 asked the clerk to read/present any other relevant information and/or correspondence, and Ms. Gavan advised there was none.

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

Greg McGovern, Planner 1, provided the following information relating to the appeal relating to D20-027 by Kelly and Leann Czuy:

1. On March 26, 2020 the development authority refused Development Permit Application D20-027 by Kelly Czuy/Leann Czuy for an accessory building garage – 92.9 sq.m (1000 sq.ft.) with dwelling, secondary suite - 92.9 sq.m (1000 sq.ft.) with 4.78 m (15.68 ft.) variance to front property line; and removal of two existing accessory buildings (sheds) located at Lot 4A, Block 1, Plan 5353 NY, Pt. SW 1-48-27-W4 (30, 48031 Rge Rd 271) Wizard Lake Estates.

The refusal was because the proposed accessory building is a two storey structure with a proposed height of 9.5 metres (31.2 feet), which exceeds the maximum allowable height for



an accessory building in the Resort Residential District by one storey, and by 4.5 metres (14.8 feet).

In accordance with Section 3.62 of the Land Use Bylaw, the Development authority shall not grant a variance to building height. *Shall* is an operative word that means the action is obligatory.

2. The subject property is a 936 sq.m parcel located in Wizard Lake Estates in SW 1-48-27-W4 at the east end of Wizard Lake off Range Road 271. Existing development on the subject property consists of a detached dwelling, two accessory buildings (sheds) and an outhouse. Both existing accessory buildings are proposed to be removed from the site.
3. The subject property is designated as a Resort Residential (RR) district in accordance with Leduc County Land Use Bylaw 7-08. Pursuant to Section 9.8.1, the general purpose of this district is to accommodate smaller resort lots in multi-lot residential subdivisions adjacent to a lakeshore having due regard to environmental impacts including the integrity of watersheds, the demands on lake access and adequate provision of utility servicing and roads.

In accordance with Section 9.8.3 of the Resort Residential district regulations, an accessory building greater than 65 sq. m (700 sq.ft.) is listed as a discretionary use. A secondary dwelling is also listed as a discretionary use.

4. In accordance with Section 9.8.5(b) the maximum allowable height for an accessory building in the Resort Residential (RR) District is 5.0 metres (16.4 feet) and not to exceed one storey.
5. Part 3.4.5(c) states that the development authority shall consider an application for development and may refuse it even if it is permitted use or discretionary use, if it does not comply with the bylaw.

Part 3.62 of the Land Use Bylaw, states the development authority shall not grant a variance to site coverage, building area, floor area, building height and dwellings per hectare. *Shall* is an operative word that means the action is obligatory.

The proposed accessory building (a detached garage with secondary suite) is a two storey structure having a height of 9.5 metres (31.2 feet) which exceeds the maximum allowable height by one storey and by 4.5 metres (14.8 feet).

The Land Use Bylaw Section 3.6.2 does not allow the development authority to grant a variance to building height and the proposed building exceeds the maximum allowed height by one storey, and by 4.5 metres (14.5 feet). As a result of this, the development authority cannot support the proposed development.

6. The appellant states in the appeal letter that the proposed building does not hinder the view from neighbouring properties and feel it adds value to the surrounding area. The appellants advised that the building plans were distributed to the neighbours and the feedback they received has been positive. According to the appellants, the neighbours want to make sure the proposed garage is constructed.
7. The development authority recommends that the SDAB uphold the decision to refuse Development Permit Application D20-027 for the reasons outlined in the Notice of Decision.

Chair McDonald asked board members if there were any questions of administrative staff.

In response to a question by Chair McDonald, administrative staff advised that the development authority is not permitted to approve variances.



In response to questions from Board Members, Kelly Czuy responded as follows:

- There is a dwelling across the street but down about 3-4 lots and not directly across.
- The appeal package was distributed to the farmer behind the subject lot and no concerns were expressed.

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

Kelly Czuy, appellant, provided the following information based on the submitted documentation forming part of the agenda package:

- 1) Submissions received in support of the proposed development from:
 - Donna Oldenburg, next door (west) of the applicant
 - Dennis and Marlene Pallard, 50, 48031 Range Road 271.
- 2) Noticed other buildings in the area exceed the height outlined within the bylaw.
- 3) Took photos of buildings similar to what they're proposing and questioned why they were permitted.
- 4) Our subject land sits about four feet below the neighbouring properties and would be much higher (final grade) than the proposed garage suite, as shown on the submitted photos.
- 5) Have another plan where there would be a breezeway to the house but are hopeful not to have to revise the current proposal.

Chair McDonald asked if there were any questions by the board members of the appellant.

In response to questions by board members, Kelly Czuy advised of the following:

- The neighbours are in favour of the proposed development. Have not had any concerns expressed.
- The photos taken of the other buildings are in the same area (Enchantment Valley) down the lake but not in the same subdivision.
- The proposed development does include living quarters, however, am willing to revise plans if necessary.
- Would like to eventually tear down current dwelling to build a cabin.
- If this development is approved, our plan is to live in the loft over the garage while the new cabin is being built.

Chair McDonald asked administrative staff to provide final comments.

Mr. Greg McGovern, Planner 1, provided the following closing comments:

- The Land Use Bylaw directs that the maximum height of an accessory building is 5 meters in Resort Residential districts. The height of the proposed building is 9.5 meters which exceeds the maximum and therefore recommends that the Board upholds the decision for refusal.

In response to a question from Board Member Rudiger, Greg McGovern responded that he does not know how the final number for height restrictions was decided on in the bylaw. The height restriction applies to all accessory buildings within Resort Residential districts.

Chair McDonald asked the appellant if he had any final comments, and Kelly Czuy indicated that he has stated everything and that he wanted and hopes to have the development permit application approved.

Chair McDonald asked Kelly Czuy, appellant, if he felt he received a fair hearing, and Kelly Czuy responded affirmatively.

Conclusion of Public Hearing

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

Staff Members Bain and McGovern, and Kelly & Leann Czuy

Staff members Bain and McGovern and Kelly & Leann. Czuy exited the meeting at 9:30 a.m.

In-Camera

11-20 Board Member Wanchuk -- that the Intermunicipal Subdivision and Development Appeal Board meet in-camera.

Carried

The in-camera session commenced at 9:31 a.m.

Recess

Chair McDonald called a recess at 9:31 a.m. (due to connectivity issues with Board Member Giles) and reconvened the in-camera session at 9:58 a.m. with Board Members Pat Rudiger (via teleconference), Rod Giles and Larry Wanchuk present.

Also present were:

- Joyce Gavan, Clerk
- Lynn White, Recording Secretary
- Kent Pudlowski, Manager of Information Technology

Revert to Intermunicipal Subdivision and Development Appeal Board Meeting

12-20 Board Member Giles -- that the in-camera session revert to the Intermunicipal Subdivision and Development Appeal Board meeting.

Carried

The in-camera session reverted to the Intermunicipal Subdivision and Development Appeal Board meeting at 10:08 a.m.

Appeal by Kelly Czuy/Leann Czuy whereby Development Permit Application D20-027 was refused for an accessory building garage – 92.9 sq.m (1000 sq.ft.) with dwelling, secondary suite - 92.9 sq.m (1000 sq.ft.) with 4.78 m (15.68 ft.) variance to front property line; and removal of two existing accessory buildings (sheds) located at Lot 4A, Block 1, Plan 5353 NY, Pt. SW 1-48-27-W4 (30, 48031 Rge Rd 271) Wizard Lake Estates.

13-20 Board Member Giles -- that the Intermunicipal Subdivision and Development Appeal Board allow the appeal by Kelly Czuy/Leann Czuy and conditionally approves Development Permit Application D20-027 located at Lot 4A, Block 1, Plan 5353 NY, Pt. SW 1-48-27-W4 (30, 48031 Rge Rd 271), Wizard Lake Estates for:



- 1) an accessory building garage – 92.9 sq.m (1000 sq.ft.) with dwelling;
- 2) secondary suite - 92.9 sq.m (1000 sq.ft.) with 4.78 m (15.68 ft.) variance to front property line; and
- 3) removal of two existing accessory buildings (sheds).

Findings of Fact

1. The Board did not hear any concerns from neighbouring property owners relating to obstruction of view.
2. There was no evidence submitted that identified any negative impacts to the neighbourhood with the proposed development.
3. Two letters of support were submitted from immediate adjacent neighbours. There were no objections submitted.
4. The subject property is designated as Resort Residential (RR) District in accordance with the Leduc County Land Use Bylaw 7-08. The general purpose of this district is to accommodate smaller resort lots in multi-lot residential subdivisions adjacent to a lakeshore having due regard to environmental impacts including the integrity of watersheds, the demands on lake access and adequate provision of utility servicing and roads.
5. The development authority was bound to refuse Development Permit Application D20-027 in accordance with Part 3.6.2 that states “the development authority shall not grant a variance to site coverage, building area, floor area, building height and dwellings per acre”. Shall is an operative word that means the action is obligatory.

The Board considered the following legislation in making their decision:

Municipal Government Act, Section 687(3)(c) and (d)

687(3) *In determining an appeal the subdivision and development appeal board (SDAB):*

- (c) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;*
- (d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw, if, in its opinion:*
 - (i) the proposed development would not*
 - (A) unduly interfere with the amenities of the neighbourhood, or*
 - (B) materially interfere with or affect the use, enjoyment of value of neighbouring parcels of land,**and*
 - (ii) the proposed development conforms with the use prescribed for that land or building in the land use bylaw.*

In consideration of the legislation stated above, the Board concludes:

- The Board has jurisdiction under Section 687(3)(c)&(d) to confirm, revoke or vary a development permit or any condition.
- The proposed development would not unduly interfere with the amenities of the neighbourhood nor materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land.



- The proposed development conforms with the use prescribed for the land within the Resort Residential (RR) District of the Leduc County Land Use Bylaw.
- The photos submitted showed the proposed development would be a similar height to adjacent properties.
- The appellant confirmed the two sheds would be removed.

Conditions for Approval

Development Permit Application D20-027 is approved, subject to the following conditions:

1. Approval is granted based on the information provided by the applicant for the approved development only and no other development.
2. The approved development shall be located as shown on the attached approved site plan. Any new approaches represented on the site plan are regarded as conceptual only and shall be applied for through a separate approval process.
3. If any infilling is required then a Road Use Agreement will be required. Please contact Engineering & Utilities (780-979-6185) to initiate the application process.
4. The approved dwelling, a secondary suite, shall be developed and maintained as a single family dwelling.
5. The existing accessory buildings (two sheds) shall be removed from the property prior to construction of the approved development
6. The approved dwelling, a secondary suite, shall be limited to the second floor of the accessory building.
7. The non-dwelling space (the ground floor) of the accessory building shall not be used as a dwelling unless specifically approved as a dwelling by a separate development permit.
8. The applicant/landowner shall provide off-street parking for the approved secondary suite.
9. The approved development shall not be used for industrial or commercial purposes unless specifically permitted by the county or exempted from requiring a permit by the Land Use Bylaw.
10. The approved accessory building shall be constructed and finished in a manner compatible with the existing buildings.
11. 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.
12. The applicant/landowner shall provide firefighting access at all times to the satisfaction of Leduc County Fire Services.
13. The approach must be maintained to avoid any damage to the County owned road surface due to construction activity.
14. 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.



15. The development shall not cause any adverse drainage impact on adjacent properties or flooding of nearby ditches in excess of their capabilities.
16. No further development, expansion or change in use is permitted unless approved by Leduc County.

Carried

Next Meeting

The next scheduled Intermunicipal Subdivision and Development Appeal Board meeting will be held at the call of the Chair.

Adjournment

14-20 Board Member Wanchuk -- that the Intermunicipal Subdivision and Development Appeal Board meeting be adjourned.

Carried

The Intermunicipal Subdivision and Development Appeal Board meeting concluded at 10:12 a.m.



Chair



Clerk